

warnings. 560 U.S. at 385. Much like the defendant in *Berghuis*, the defendant in this case engaged in a “course of conduct” which is inconsistent with the invocation of the right to remain silent. *Id.* Thus, the defendant in this case waived his *Miranda* rights.

Since the defendant was read his rights, and the defendant indicated that he understood them, the proper procedural safeguards were met. Since the defendant was afforded the proper protections under *Miranda*, and the defendant continued to answer the officer’s questions, the defendant validly waived his right to counsel. 384 U.S. at 444.

**B. The defendant’s statement to the police officer regarding his right to an attorney was too ambiguous and equivocal to be considered a valid invocation of his right to counsel.**

An invocation is considered unambiguous and unequivocal only if such a desire is sufficiently clear so that a reasonable police officer under the circumstances would understand the statement to be a request for an attorney. *Davis*, 512 U.S. at 459. A statement which fails to meet the requisite level of clarity will not prevent the officer from being able to question the defendant. *Id.* If a defendant is “indecisive in his request for counsel,” there is no rule mandating that police must cease questioning. *See id.* at 460.

In *Davis*, the Court held that the defendant’s statement to the police was not an invocation. *Id.* at 462. In that case, the defendant said “Maybe I should talk to a lawyer,” about an hour and a half into the interview. *Id.* at 455. The officers asked him to clarify whether he was asking for a lawyer, to which the defendant responded that he was not. *Id.* After another hour into the interview, the defendant said “I think I want a lawyer before I say anything else.” *Id.* At that point, the officers immediately ceased questioning. *Id.* The Court held that the defendant’s first statement to the officers was not an unambiguous request for counsel, and thus the officers were not required to cease questioning. *Id.* at 462. Furthermore, the officers asked the defendant

a clarifying question as to whether he was actually requesting an attorney, and while the Court acknowledged this was good practice, it did not explicitly require this of police officers. *Id.* at 461.

In *People v. Roquemore*, the court held that the defendant did not invoke his right to counsel by asking if he could have a lawyer because such a question was not an unambiguous request for counsel. 31 Cal.Rptr.3d 214, 224 (Cal. Ct. App. 2005). In that case, the arresting officers advised the defendant of his rights, to which the defendant claimed to understand them, and proceeded to answer the officer's questions. *Id.* at 219. After a series of questions, it became clear to the police that the interrogation was leading nowhere when the defendant asked "Can I call a lawyer or my mom to talk to you?" *Id.* At this point, the police ceased questioning, not because they believed the defendant to be invoking his right to counsel, but because they believed further questioning would not be productive. *Id.* The court clarified that a waiver of one's Miranda rights may be either "express or implied" and that a defendant may implicitly waive their rights by acknowledging that they understand them, and subsequently answering the police's questions. *Id.* While the defendant argued that his statement constituted an assertion of the right to counsel during questioning, the court held that his statement could not be understood by a reasonable officer to be a clear invocation of the right to counsel. *See id.* at 224. Thus, the court held that the defendant did not invoke his right to counsel. *Id.*

In *In re Art T.*, the court held that the defendant's statement to the police, in that context, was an unambiguous request for an attorney. 183 Cal.Rptr.3d 784, 799 (Cal. Ct. App. 2015). In that case, officers arrested a 13-year-old boy, and advised him of his rights. *Id.* at 339. The police showed the boy footage of the murder for which he was tried, claiming that the murderer in the video was him, and questioned him about the footage. *Id.* at 341. After repeatedly denying that

the individual in the footage was him, the defendant told police “Could I have an attorney? Because that’s not me.” *Id.* Believing that the boy was referring to his right to counsel during criminal trials, the police answered with “You’ll have the opportunity.” *Id.* The court held that this was an unambiguous request for counsel. *Id.* at 799. The court noted that statements which were closer to “can I have a lawyer” tend to be unambiguous invocations of the right to counsel, while statements that were closer to “maybe I should talk to a lawyer” were too ambiguous. *Id.* at 799 n. 14 (quoting *Davis*, 512 U.S. at 462). Thus, the court held that the defendant had invoked his right to an attorney. *Id.* at 800.

In this case, the defendant’s statement to the police was too unambiguous to be considered an invocation under *Davis*. 512 U.S. at 462. In this case, the defendant told the police “I’m just thinking, maybe I shouldn’t say anything without a lawyer.” When the police officer asked him to clarify, he said “On TV, they always get a lawyer.” This statement is similar to the defendant’s statement in *Davis*, where both defendants not only explicitly used the word ‘maybe,’ but indicated some sort of internal conflict as to whether they should request an attorney. *Id.* at 455. Much like the defendant in *Davis*, the defendant in this case did not make an unambiguous statement so as to make a reasonable officer certain that they were requesting an attorney. *Id.* at 462. Furthermore, the defendant’s statement to the police was more ambiguous than the defendant’s in *Roquemore*, where the court held that “Can I call a lawyer or my mom to talk to you?” was also too ambiguous to be an invocation for counsel. 31 Cal.Rptr.3d at 224. While that statement was deemed to be ambiguous, a clarifying question as to whether someone else could speak to the police is still more unequivocal than a defendant’s internal conflict about whether they would like to have a lawyer present.

Furthermore, the defendant's statement to the police constitutes no certain request to have an attorney present. Unlike in the case of *In re Art T.*, where the defendant's statement "Could I have an attorney," would signal to a reasonable officer that they were asking for counsel, there is no certain request in this case. 183 Cal.Rptr.3d at 341. In this case, the defendant never asks the police officer for an attorney. The defendant, at most, states that he is uncertain as to whether he should speak without an attorney. This uncertainty is not enough to invoke the right to counsel. *Davis*, 512 U.S. at 459.

Since the defendant never asks for an attorney, and since the defendant never states that he wants an attorney, his statement to the police does not constitute an unambiguous or unequivocal statement. Thus, the defendant did not invoke his right to counsel.

## **II. The case law does not support the defense's contention that the defendant invoked his Constitutional rights.**

For the defendant to invoke their right to counsel, they must leave no room for uncertainty, as a statement is either "an assertion of the right to counsel or it is not." *Smith v. Illinois*, 469 U.S. 91, 98 (1984). An officer must cease all questioning of the defendant only when the circumstances leading up to the request and the request itself leave no room for ambiguity. *See id.* However, the question as to whether a defendant has invoked his right to counsel is categorically distinct from whether they have waived their *Miranda* rights. *Id.* Such a distinction is meant to protect defendants, so that the police may not "wear down the accused and persuade him to incriminate himself notwithstanding his earlier request for counsel's assistance." *Id.* The waiver of those rights; however, may be inferred when considering "the particular facts and circumstances surrounding the case." *Id.* (quoting *Johnson v. Zerbst*, 304 U.S. 458, 464 (1938)). However, once the defendant has invoked their right to counsel, subsequent statements and actions by the defendant are "relevant only to the question whether the accused waived the right

he had invoked.” *Smith*, 469 U.S. at 98. Accordingly, the defendant’s actions and statements prior to invoking the right to counsel may be relevant in determining ambiguity, but not subsequent actions and statements. *See id.* at 98-100.

**A. The cases that the defense cites fail to support the contention that the defendant had invoked their right to counsel.**

A defendant, after waiving their *Miranda* rights, may subsequently invoke their right to counsel. *Edwards*, 451 U.S. at 484 (1981). Such invocation; however, must be made sufficiently clear so that a reasonable officer would understand the statement to be an invocation of the right to counsel. *Davis*, 512 U.S. at 459. If a suspect makes “a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that the suspect *might* be invoking their right to counsel” then cessation of questioning is not required. *Id.*

The defense cites *People v. Dingle* to support the claim that the defendant invoked his right to counsel. 219 Cal.Rptr. 707, 709 (Cal. Ct. App. 1985). In *Dingle*, the court held that the defendant’s statement, “I think now that you told me what you think, I better talk to a lawyer,” was a valid invocation of the right to counsel. *Id.* In that case, the defendant’s statement to the police reflected no uncertainty or ambiguity, and instead evidenced a clear desire to have an attorney present. *See id.*

Furthermore, the defense distinguishes this case from *People v. Bacon* to support the claim that the defendant here invoked his right to counsel. 240 P.3d 204 (Cal. 2010). In that case, the defendant told the interrogating officer, “[y]eah, I think it’d probably be a good idea ... for me to get an attorney.” *Id.* at 224. In the same exchange, the defendant told the officer, “that’s what you’re gonna say. I mean talk to me okay?” *Id.* At that point, the officer was unsure

whether “talk to me” was a waiver of the right to an attorney, or whether he was asking the officer what he wanted him to do. *Id.* After confirming with the defendant, the officer understood it to be a waiver. *Id.* The court held that this confirmation made such a statement an unambiguous waiver; however, the court clarified that had the statement been ambiguous, it would not have been an invocation of the right to counsel anyway. *Id.* Thus, the court held that the defendant did not invoke his right to counsel because he did not make a clear and unambiguous request for an attorney. *Id.*

The defense analogizes to *Wood v. Ercole* to argue that the defendant here invoked his right to counsel. 644 F.3d 83, 87 (2nd Cir. 2011). In *Wood*, the court held that the defendant’s statement to the police, “I think I should get a lawyer,” coupled with the surrounding circumstances, was an invocation of the right to counsel. *Id.* In that case, the defendant told the police he wanted an attorney, and the officer responded by handing him a phone, and leaving the room. *Id.* The court acknowledged that it was possible for such a statement to be uttered in an uncertain or ambiguous way, but that the officer’s subsequent actions foreclosed any doubt as to his understanding of the statement. *Id.* at 92. Furthermore, the court declined to hold that the defendant should have been more insistent or combative in demanding a lawyer, and instead held that the defendant’s attempts at being polite did not render his invocation ambiguous. *Id.*

The defense also analogizes this case to *Sessoms v. Grounds* in order to argue that the defendant’s statement to the police was unambiguous. 776 F.3d 615, 617 (9th Cir. 2015). In *Sessoms*, the defendant explicitly told the police “Yeah, that’s what my dad asked me to ask you guys ... uh, give me a lawyer.” *Id.* In that case, the court went to great lengths to emphasize that the defendant could have said very little to make that statement more unambiguous than it already was. *Id.* at 627. While it is true that the defendant was requesting an attorney on the

advice of his father, this was not relevant to the court's decision, as there could be no other reasonable interpretation of that statement than that he wanted an attorney present. *Id.*

The defendant's statement here is closer to the ambiguous statement uttered in *Bacon*. 240 P.3d 204, at 221. The defense argues that the totality of the circumstances of the entire investigation is what rendered the statement ambiguous, and consequently, the statement here was unambiguous. However, the court in *Bacon* actually held that the totality of the circumstances of the exchange where the reference to an attorney was made is what made the statement ambiguous. *Id.* In *Bacon*, the defendant's previous statements and behavior outside of the exchange was not dispositive as to whether the defendant actually invoked his right to counsel. *Id.* Furthermore, the court held that even if the defendant's statement, "talk to me," could be reasonably interpreted in multiple ways, such ambiguity would not have allowed the statement to be considered a valid invocation. *Id.* In this case, the defendant's statements to the police could be reasonably interpreted in multiple ways. For instance, the defendant could have meant that getting an attorney might be a good idea because people on TV always get an attorney. Alternatively, defendant could have been internally questioning whether he should talk to an attorney. Both of these interpretations are more likely than the interpretation that he unequivocally and unambiguously requested counsel.

The defense argues that the defendant's statement here reflects a similar level of clarity as the statement in *Dingle*. 219 Cal.Rptr. at 707. However, the statement in this case is "maybe I shouldn't say anything without a lawyer," while the statement in *Dingle* was "I better talk to a lawyer." *Id.* The former statement reflects ambiguity and uncertainty. A reasonable officer, such as the interrogating officer in this case, would interpret the former statement to reflect an inner conflict in the mind of the defendant. Nothing about the statement indicates a clear desire for an

attorney. However, the statement in *Dingle* reflects glaring certainty. *Id.* In that statement, the defendant is making a clear choice that speaking to an attorney is what they would rather do. Furthermore, the defendant's statement here is far from the level of certainty than the statement in *Sessoms*. 776 F.3d at 627. The defendant's statement here could be reasonably interpreted to mean something other than that he wanted a lawyer. It is reasonable to interpret the defendant's statement here as a form of wondering aloud, or a reflection of inner conflict. In *Sessoms*, the court emphasized that there was only one reasonable interpretation, which was that the defendant wanted an attorney. *Id.*

Furthermore, the defense argues that the standard set forth in *Wood* should be applied in this case to read the defendant's statement as an unambiguous request for counsel. 644 F.3d at 87. However, the surrounding circumstances in this case are substantially distinct from the case in *Wood*. *Id.* In this case, the interrogating officer responded to the suspect's statement by asking what he meant. When the defendant responded "On TV, they always get a lawyer," the officer reasonably interpreted this statement to indicate that the defendant was taking legal advice from TV. Meanwhile, the officer in *Wood*, upon hearing the defendant request counsel, stopped speaking to the defendant, and handed him a phone. *Id.* at 87. In that case, the court expressed doubt that the statement could be reasonably interpreted as anything but a request for an attorney in the first place, but that any ambiguity was dispelled by the officer's response to the defendant's request. *Id.* at 92. In *Wood*, it was the officer's response that confirmed the clarity of the defendant's statement, but in this case, the officer's response demonstrates the ambiguity of this defendant's statement. *Id.*

Since the defendant's statements to the police do not reflect the requisite level of clarity to invoke the right to counsel, such statements should not be read as a clear invocation of the



right to counsel. Since the defense did not invoke his right to counsel, his confession to the police should be admitted.

**B. The cases that the defense cites fail to rebut the fact that the defendant waived their right to counsel.**

A defendant's express statement that they wish to proceed with interrogation without the assistance of an attorney followed closely by a statement would almost certainly constitute a waiver. *Miranda*, 384 U.S. at 475. Furthermore, a valid waiver will not be presumed merely from the fact that the defendant was silent, or that a confession was actually obtained. *Id.* However, an express statement is not "indispensable to a finding of waiver." *North Carolina v. Butler*, 441 U.S. 369, 373 (1979). In fact, the defendant's waiver "can be clearly inferred from the actions and words of the person interrogated." *Id.* However, once the defendant has invoked their right to counsel, the fact that the defendant continued to respond to police questioning is not enough to waive that right. *Edwards*, 451 U.S. at 484 (1981).

The defense cites *Dingle* to rebut a finding of waiver. 219 Cal.Rptr. at 707. In that case, the interrogating officers advised the defendant of his rights, and the defendant agreed to questioning. *Id.* After approximately two and a half hours of questioning, the defendant decided he wanted to answer no more questions, and invoked his right to counsel. *Id.* After the interrogating officer informed the officer in charge of the investigation, the latter officer confronted the defendant, and proceeded to interrogate him. *Id.* After relentlessly intimidating and badgering the defendant, the officer finally obtained a confession. *Id.* The defendant broke down crying, confessing to rape, murder, and arson. *Id.* The court held that the defendant's confession was inadmissible, because the second investigating officer purposefully and flagrantly disregarded the defendant's constitutional rights. *Id.* In light of this factor, the court

held that the defendant's confession to the police after invoking his right to counsel was not a waiver of that right. *Id.*

The defense cites *Martinez v. Cate* to rebut the fact that the defendant waived his *Miranda* rights. 903 F.3d 982 (9th Cir. 2018). In that case, the defendant was stipulated to have invoked his right to counsel. *Id.* at 993. The court held that because the defendant had invoked his right to counsel, and because the officer continued to interrogate the defendant after invoking that right, his responses to the interrogation could not be interpreted as valid waivers of the right to counsel. *Id.* In order for the defendant's subsequent statements to be inadmissible, the defendant would have needed to reinitiate communication with the officer himself, and have waived his *Miranda* rights voluntarily, knowingly, and intelligently. *Id.* at 996. Consequently, the court held that the defendant's confession was an inadmissible response to the officer's badgering and disregard of the defendant's *Miranda* rights. *Id.* at 997.

The defendant's responses to the interrogating officer in this case; however, should be interpreted as a valid waiver of their *Miranda* rights. In both *Martinez* and *Dingle*, the defendants responded to the officer's questions after validly invoking their right to counsel. *Id.*; 219 Cal.Rptr. at 707. In this case, the defendant did not validly invoke their right to counsel, and instead answered the officer's questions absent an invocation of that right. Since the defendant had not invoked his right to counsel, his responses to the officer's questions constitute a valid waiver of his *Miranda* rights. *See Berghuis* 560 U.S. at 386.

Since the defendant did not invoke his right to counsel, his responses to the officer's questions constitute a valid waiver of his *Miranda* rights. Since the defendant has not invoked his *Miranda* rights, his confession to the police should be admitted.

**III. The interrogating officer here did not attempt to deprive the defendant of his Constitutional rights by discouraging him from invoking them, or minimizing their legal significance.**

The primary protection afforded to defendants in interrogation is “the *Miranda* warnings themselves.” *Davis*, 512 U.S. at 460. When a suspect indicates that they understand their rights as it has been explained to them, and proceeds to answer the police’s questions, he has indicated he is willing to deal with the police unassisted. *Id.* When explaining a defendant’s *Miranda* rights, the officer should not characterize the warnings as a “technicality” in order not to undermine the legal significance of those rights. *People v. Musselwhite*, 954 P.2d 475 (1998).

The defense analogizes this case to *Martinez* to argue that the officer here induced the defendant into waiving his rights. 903 F.3d at 996. In *Martinez*, the interrogating officer asked the defendant for his side of the story, and the defendant told the police that he wanted an attorney present before answering questions. *Id.* In response, the officer told the defendant that because he only has “one side of the story,” he would have to book the defendant. *Id.* As a result, the defendant cooperated with the police. *Id.* The court held that such coercion was inadmissible, because the officer had badgered the defendant, and consequently, the admission was “at the authorities’ behest.” *Id.* at 998.

This case is substantially different from *Martinez*. *Id.* Here, the police officer did not threaten the defendant with booking if he invoked his right to an attorney, as the officer in *Martinez* did. *Id.* Furthermore, the police did not describe the *Miranda* warnings as a technicality, and ensured that the defendant understood his rights. The defense argues that the statement “you watch too much TV,” was an attempt by the police to downplay the significance of those rights, but nothing in the record suggests anything coercive about this statement. The defendant had the ability to end interrogation at that moment by invoking his right to an attorney, but he did not. Moreover,

the defense cannot claim that the defendant did not understand his rights, because the defendant told the police he understood his rights.

Nothing in the record suggests that the police engaged in any prohibited trickery or coercion in inducing the defendant into waiving his rights. The defendant made an informed, knowing, and voluntary choice in speaking to the police unassisted.

### **CONCLUSION**

Defense's motion to suppress the defendant's statement to the police should not be granted. The defendant waived his *Miranda* rights by answering the officer's questions, and never unambiguously and unequivocally invoked his right to an attorney during the questioning. Furthermore, the police never engaged in any prohibited conduct that would have deprived the defendant of his *Miranda* rights. The people respectfully request that the defense's motion be denied.

## Applicant Details

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 Date of JD/LLB **May 11, 2024**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **Northeastern University Law Review**  
 Moot Court Experience **No**

## Bar Admission

**Prior Judicial Experience**

Judicial  
Internships/           **Yes**  
Externships  
Post-graduate  
Judicial Law       **No**  
Clerk

**Specialized Work Experience**

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**This applicant has certified that all data entered in this profile and  
any application documents are true and correct.**

**LILY MALLOY**

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May 11, 2023

The Honorable Jamar K. Walker  
United States District Court, Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker:

I am a second-year student at Northeastern University School of Law. I write to apply for a clerkship in your chambers starting August 5, 2024 and ending August 8, 2025. I am particularly interested in clerking for the District of Eastern District of Virginia because I have friends in Virginia, and I would appreciate the opportunity to learn more about that jurisdiction and work under an experienced judge. I have developed extensive research and writing skills as a judicial intern at the U.S. District Court for the District of Massachusetts, as a law clerk at a national law firm, and as a member of the *Northeastern University Law Review*. As an aspiring litigator, I believe I would be a strong candidate for a clerkship in your chambers given my background and desire to work in a federal trial court.

My internship with Judge Saris following my first year of law school allowed me to draw on my academic experiences and further hone my legal research and writing skills. During my internship, I analyzed various case law and drafted opinions, orders, and bench memoranda in preparation for upcoming hearings. I also had the opportunity to witness two full-length criminal trials as well as various hearings and sentencings. This internship proved to be an invaluable experience and sparked my interest in federal clerkships and my desire to gain greater exposure to different areas of law.

My most recent internship as a law clerk with MG+M has also clarified my interest in working as a judicial clerk. During this experience, I engaged in extensive legal research, drafted legal documents including briefs, pleadings, and discovery responses, prepared documents for depositions and trial, and attended multiple court hearings. This experience has allowed me to sharpen my legal research and writing skill in ways I know I will benefit from as a judicial clerk in your chambers.

Enclosed please find my resume, law school transcript, a writing sample, and letters of recommendation from Judge Saris, Professor Medwed, and Professor Meise. I am eager to contribute to the exiting and important work of Eastern District of Virginia and would welcome the opportunity to further discuss my interest and experience. Thank you for your consideration.

Respectfully,  
Lily Malloy

## LILY MALLOY

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### EDUCATION

**Northeastern University School of Law**, Boston, MA

Candidate for Juris Doctor, May 2024

Honors: *Northeastern University Law Review*, Senior Editor, Submissions Review Committee, Community Engagement Committee  
Activities: Women's Law Caucus; Student Bar Association  
Teaching Assistant: Professor Alexandra Meise, LSSC: Research and Writing (Fall 2022)  
1L Legal Skills Project: Researched state, federal, and international laws to create a congressional recommendation on displaced persons due to climate change

**University of New Hampshire**, Durham, NH

Bachelor of Arts, *summa cum laude*, in Psychology, GPA: 3.91, May 2019

Honors: Dean's List Fall 2016 – Spring 2019  
Activities: Psychology Club; Animal Welfare Alliance  
Research Assistant: Interpersonal Violence Research Laboratory

### LEGAL EXPERIENCE

**MG+M The Law Firm**, Boston, MA

Jan. 2023 – Present

*Law Clerk*

- Work closely with partners and associates of a national law firm on a variety of complex litigation matters
- Perform extensive research and draft memoranda and briefs on substantive and procedural matters

**U.S. District Court for the District of Massachusetts**, Boston, MA

May 2022 – Aug. 2022

*Judicial Intern to the Honorable Patti B. Saris*

- Conducted extensive legal research and drafted opinions and memoranda in civil and criminal matters
- Assisted in managing civil and criminal trials and handling discovery disputes
- Made recommendations concerning motions to dismiss, motions for summary judgment, motions to suppress, and motions for injunctive relief

**Sherin and Lodgen LLP**, Boston, MA

July 2019 – July 2021

*Litigation Paralegal*

- Assisted in all aspects of litigation support including legal research, factual investigation, and document review
- Drafted, reviewed, and filed legal documents including letters, pleadings, affidavits, summonses, subpoenas, and memoranda of law

### ADDITIONAL EXPERIENCE

**UNH University Advising Center**, Durham, NH

May 2018 – June 2019

*Peer Advisor*

- Aided students with selecting courses each semester and informed them of available academic resources
- Advised undeclared students by answered questions relating to course registration, course planning, and campus advising tools and prepared students for appointments with professional advisors

**My Friend's Place**, Dover, NH

Jan. 2019 – May 2019

*Intern*

- Worked closely with the Executive Director and Case Manager to develop a client's individual/family case plan and to review the residents housing and job searches

### INTERESTS

- Spin class, running, traveling, and cooking



## NORTHEASTERN UNIVERSITY



# Northeastern University Registrar

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REFNUM:02925405

NUID: 002136473

Primary Program  
Juris Doctor

College : School of Law  
Major : Law

SUBJ NO.	COURSE TITLE	CRED GRD	PTS R
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## INSTITUTION CREDIT:

Fall 2021 Law Semester ( 08/30/2021 - 12/22/2021 )

LAW 6100	Civil Procedure	5.00 P	0.000
LAW 6105	Property	4.00 H	0.000

LAW 6106	Torts	4.00 H	0.000
LAW 6160	Legal Skills in Social Context	2.00 H	0.000
LAW 6165	LSSC: Research & Writing	2.00 H	0.000

Ehrs:17.000 GPA-Hrs: 0.000 QPts: 0.000 GPA: 0.000

Spring 2022 Law Semester ( 01/10/2022 - 05/06/2022 )

LAW 6101	Constitutional Law	4.00 H	0.000
LAW 6102	Contracts	5.00 H	0.000
LAW 6103	Criminal Justice	4.00 HH	0.000
LAW 6160	Legal Skills in Social Context	2.00 H	0.000
LAW 6165	LSSC: Research & Writing	2.00 H	0.000

Ehrs:17.000 GPA-Hrs: 0.000 QPts: 0.000 GPA: 0.000

Summer 2022 Law Semester ( 05/09/2022 - 08/23/2022 )

COOP: U.S. Dist. Court, Dist. of Mass.,  
Judge Saris  
Boston, MA

LAW 7964	Co-op Work Experience	0.00 CR	0.000
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Ehrs: 0.000 GPA-Hrs: 0.000 QPts: 0.000 GPA: 0.000

Fall 2022 Law Semester ( 08/29/2022 - 12/23/2022 )

LAW 7323	Corporations	4.00 H	0.000
LAW 7332	Evidence	4.00 H	0.000
LAW 7443	Professional Responsibility	3.00 HH	0.000

\*\*\*\*\* CONTINUED ON NEXT COLUMN \*\*\*\*\*

SUBJ NO.	COURSE TITLE	CRED GRD	PTS R
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Institution Information continued:

LAW 7678	Legal Research Workshop	1.00 HH	0.000
LAW 7933	Scholarly Legal Writing	2.00 HH	0.000
LAW 7937	Teaching Assistant	2.00 HH	0.000

Ehrs:16.000 GPA-Hrs: 0.000 QPts: 0.000 GPA: 0.000

Spring 2023 Law Semester ( 01/09/2023 - 04/29/2023 )

MG + M LLP  
Boston, MA

LAW 7964	Co-op Work Experience	0.00 CR	0.000
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Ehrs: 0.000 GPA-Hrs: 0.000 QPts: 0.000 GPA: 0.000

Summer 2023 Law Semester ( 05/08/2023 - 08/26/2023 )

IN PROGRESS WORK

LAW 7333	Family Law	3.00	IN PROGRESS
LAW 7377	Trusts and Estates	4.00	IN PROGRESS
LAW 7479	Basic Income Taxation	4.00	IN PROGRESS
LAW 7647	Trial Practice	2.00	IN PROGRESS
LAW 7672	Data Privacy Compliance	3.00	IN PROGRESS

In Progress Credits 16.00

\*\*\*\*\* TRANSCRIPT TOTALS \*\*\*\*\*

	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	50.000	0.000	0.000	0.000

TOTAL TRANSFER	0.000	0.000	0.000	0.000
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OVERALL	50.000	0.000	0.000	0.000
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\*\*\*\*\* END OF TRANSCRIPT \*\*\*\*\*

Page: 1

Rebecca Hunter

Assoc VP & University Registrar

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# SCALE OF GRADES AND COMMENTS TO ACCOMPANY TRANSCRIPTS

**Effective Fall 2016:** College of Professional Studies undergraduate programs converted from a quarter system to a semester system. For student records including hours earned prior to fall 2016, the credit hour conversion rate is as follows: QH x .75. For example a 4-credit quarter course is now equivalent to a 3-credit semester course.

**Effective Fall 2009:** Northeastern University converted its Student Information System. All courses and Programs were converted.

## Northeastern University Course Numbering

### UNDERGRADUATE

**Orientation and Basic** 0001-0999

No degree credit

**Introductory Level (First year)** 1000-1999

Survey, Foundation and Introductory courses normally with no prerequisites and designed primarily for students with no prior background

**Intermediate Level** 2000-2999

(Sophomore/Junior year)

Normally designed for sophomores and above, but in some cases open to freshman majors in the department.

**Upper Intermediate Level (Junior year)** 3000-3999

Designed primarily as courses for juniors. Pre-requisites are normally required and these courses are pre-requisites for advanced courses.

**Advanced Level (Senior year)** 4000-4999

Designed primarily for juniors and seniors, or specialized courses. Includes research, capstone and thesis.

### GRADUATE

**Orientation and Basic** 0001-0999

No degree credit

**1st level graduate** 5000-5999

Courses primarily for graduate students and qualified undergraduate students with permission

**2nd level graduate** 6000-6999

Generally for Master's only and Clinical Doctorate

**3rd level graduate** 7000-7999

Master's and Doctoral level classes. Includes Master's Thesis

**Clinical/Research/Readings** 8000-8999

Includes Comprehensive Exam Preparation

**Doctoral Research and Dissertation** 9000-9999

## Northeastern University Grade Scale

Letter Grade	Numerical Equivalent	Explanation
A	4.0	Outstanding Achievement
A-	3.667	
B+	3.333	
B	3.0	Good Achievement
B-	2.667	
C+	2.333	
C	2.0	Satisfactory Achievement
C-	1.667	
D+	1.333	
D	1.0	Poor Achievement
D-	0.667	
F	0.0	Failure
I		Incomplete
IP		In Progress
NE		Not Enrolled
NG		Grade not reported by Faculty
S		Satisfactory (Pass/Fail basis; counts toward total degree requirements)
U		Unsatisfactory (Pass/Fail basis)
X		Incomplete (Pass/Fail basis)
L		Audit (no credit given)
T		Transfer
W		Course Withdrawal

## Course Comments

E	Course excluded from GPA
HON	Honors level course
I	Course included in GPA

## LAW SCHOOL

CR	Credit
F	Fail
H	Honors
HH	High Honors
I	Incomplete
MP	Marginal Pass
P	Pass

## Earned Hours

Northeastern University offers both quarter hour and semester hour programs.

**Quarter Hours to Semester Hours Conversion Rate:** For student records including quarter hours, the approved semester hour conversion rate is as follows: QH x .75. For example a 4-credit quarter course is equivalent to 3 credit semester courses.



### **Northeastern University School of Law Grading and Evaluation System**

A global leader in experiential learning for over 50 years, Northeastern University School of Law (“NUSL”) integrates academics with practical skills as its core educational philosophy. To fulfill NUSL graduation requirements, law students must earn at least 83 academic credits and complete at least three terms of full-time, law-related work through “co-op,” our unique Cooperative Legal Education Program.

Consonant with the word “cooperative,” NUSL cultivates an atmosphere of cooperation and mutual respect, exemplified in our course evaluation system. NUSL faculty provide detailed feedback to students through narrative evaluations, designed to prepare law students for the practice of law. The narrative evaluations examine law student written work product, contributions to class discussions, results of examinations, specific strengths and weaknesses, and overall engagement in the course. Faculty also award the student a grade in each course, using the following categories:

- **High Honors**
- **Honors**
- **Pass**
- **Fail**

A small number of courses are evaluated using a Credit/No Credit evaluation system, instead of a grade. NUSL does not provide GPAs or class ranks.

NUSL transcripts include the following information:

- The course name, grade received, and number credits earned;
- The faculty’s narrative evaluation for the course; and
- All co-ops completed, and the evaluations provided by the co-op employer.

“In progress” notations on a transcript indicate that a student has not yet received an evaluation from faculty for a particular course.

During the Spring 2020 semester, due to the COVID-19 pandemic, all courses were subject to mandatory “Credit” or “Fail” evaluations, except for year-long courses LAW 6160 and 6165.

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 24694  
**Course Title:** Legal Research Workshop  
**Course ID:** LAW 7678  
**Credits:** 1  
**Term:** Fall 2022 Law Semester  
**Instructor :** Persons, Sharon  
**Grade:** High Honors

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**Course Description:**

Designed to assist students in developing and executing research plans for writing projects. Requires students to identify an appropriate project early in the course; the project may be one that the student creates specifically for the course, or it could be one undertaken for a law review note, a seminar, or an independent study in which the student is concurrently enrolled. Includes readings, lectures, demonstrations, and in-class and homework exercises, as well as peer and instructor feedback focused on research strategies. Requires students to periodically present their research strategies and results for their writing projects.

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**Performance Highlights:**

This student demonstrated strong skills in legal analysis and research to complete the initial research for one or more pieces of scholarly legal writing and to create an annotated outline. Steps included selecting a topic, preemption check, creating a research plan, working bibliography, leading scholar's essay, research summary, analytical framework, and an annotated outline. This student also did a great job on the two presentations, including fielding questions from the class and instructor.

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**Date:** 2.14.2023 2:27PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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<b>Student:</b>	Malloy, Lily
<b>Exam #:</b>	24694
<b>Course Title:</b>	Scholarly Legal Writing
<b>Course ID:</b>	LAW 7933
<b>Credits:</b>	2
<b>Term:</b>	Fall 2022 Law Semester
<b>Instructor :</b>	Persons, Sharon
<b>Grade:</b>	High Honors

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**Course Description:**

Introduces basic concepts and principles of scholarly legal writing. Requires students to produce a piece of legal writing on a complex legal issue of their choice. The scholarly writing is expected to meet the standards of the upper-level rigorous writing requirement and be of publishable quality, analyzing an original legal issue.

**Performance Highlights:**

This student demonstrated strong skills in legal analysis, research and composition for one or more pieces of scholarly legal writing. Steps included selecting a topic, preemption check, creating a research plan, working bibliography, leading scholar's essay, research summary, analytical framework, annotated outline, and drafting and revising a first draft. This student also did a great job on the two presentations, including fielding questions from the class and instructor.

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<b>Date:</b>	2.14.2023 1:55PM
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**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 24694  
**Course Title:** Teaching Assistant  
**Course ID:** LAW 7937  
**Credits:** 2  
**Term:** Fall 2022 Law Semester  
**Instructor :** Meise, Alexandra  
**Grade:** High Honors

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**Course Description:**

Working under the direct supervision of a full-time faculty member, an upper level student in good academic standing may serve as a teaching assistant for first year or upper level courses. Teaching assistants may be required to attend classes and complete all reading assignments. Other responsibilities may include, but are not limited to, conducting review sessions, classroom exercises or other forms of direct instruction; holding office hours or meetings with individual students taking the course; and assisting in the development of course materials and assessments. In addition, teaching assistants are expected to meet regularly with the professor.

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**Performance Highlights:**

Lily served as a TA for the Skills portion of NUSL's Legal Skills in the Social Context program for 1Ls. In that role, she served as a leader, a guide, a trainer, and a mentor to the 28 students in the course. She also helped design assignments; reviewed, edited, and corrected assorted types of student work product; and collaborated with me and her fellow TA on lesson design and instruction techniques.

Lily was a fantastic team player. Her work with her fellow TA to help plan Bluebooking lessons and related assignments, including how and when those assignments would be reviewed and graded, demonstrated excellent project management skills.

I do not have enough positive adjectives to articulate how grateful I am to Lily for anticipating student questions, anticipating my needs on assignment prep, and asking excellent questions. The weekly "round-up" emails she drafted and circulated with her fellow TA were comprehensive but pithy, and kept the class on-point and accountable. I will be using their work-product as a model for subsequent TAs to follow.

Lily handled well working with, supervising, and guiding our 28 students with wide ranging personalities, strengths, and skillsets. Lily's research, writing, and organizational skills, including the ability to manage multiple and overlapping deadlines, will serve her well in her legal career.

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**Date:** 2.10.2023 12:14PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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<b>Student:</b>	Malloy, Lily
<b>Exam #:</b>	24694
<b>Course Title:</b>	Corporations
<b>Course ID:</b>	LAW 7323
<b>Credits:</b>	4
<b>Term:</b>	Fall 2022 Law Semester
<b>Instructor :</b>	Danielsen, Dan
<b>Grade:</b>	Honors

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**Course Description:**

This course relates to the formation, financial structure, and governance of business enterprises, especially incorporated businesses. Partnerships, limited partnerships, limited liability companies and limited liability partnerships are also explored, principally as they compare to the corporate form. The topics studied include: rights of creditors to hold principals of the enterprise liable; distribution of control within the corporation; fiduciary duties of directors and officers; key aspects of the federal securities laws (including the regulation of insider trading and proxies); organic changes (such as mergers); shifts in control (such as takeovers and freeze-outs); and legal implications of the roles of corporations in society. The course introduces some of the specialized concepts explored in detail in courses on Securities Regulation and Corporate Finance.

**Performance Highlights:**

Your examination demonstrated a good understanding of the issues raised and a thoughtful application of relevant legal doctrine in resolving them.

Your examination demonstrated careful attention to the needs of the applicable client in each question.

Your short papers evidenced your ability to deliver helpful legal advice to clients on complex business problems.

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<b>Date:</b>	2.7.2023 1:33AM
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**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 24694  
**Course Title:** Evidence  
**Course ID:** LAW 7332  
**Credits:** 4  
**Term:** Fall 2022 Law Semester  
**Instructor :** Medwed, Daniel  
**Grade:** Honors

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**Course Description:**

This course examines how courtroom lawyers use the evidence rules to present their cases—notably, rules regarding relevance, hearsay, impeachment, character, and experts. The approach to the study of evidence will be primarily through the “problem” method—that is, applying the provisions of the Federal Rules of Evidence to concrete courtroom situations. Theoretical issues will be explored as a way to deepen the student’s appreciation of how the evidence rules can and ought to be used in litigation.

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**Performance Highlights:**

- \* I appreciated how you tried to organize your final examination answers around the different issues in the fact patterns, and how you identified many of the key issues
- \* In terms of substance, your exam showed a solid command of several complicated hearsay concepts, including the business record exception and double hearsay
- \* You effectively drew upon case law to support your exam analysis

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**Date:** 1.27.2023 10:23AM



**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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<b>Student:</b>	Malloy, Lily
<b>Exam #:</b>	24694
<b>Course Title:</b>	Professional Responsibility
<b>Course ID:</b>	LAW 7443
<b>Credits:</b>	3
<b>Term:</b>	Fall 2022 Law Semester
<b>Instructor :</b>	Rosenfeld, Arnold
<b>Grade:</b>	High Honors

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**Course Description:**

This course focuses on the legal, ethical and professional dilemmas encountered by lawyers. Emphasis is on justice as a product of the quality of life that society provides to people rather than merely the process that the legal system provides once a crime or breach of duty has occurred. The course also provides students with a working knowledge of the American Bar Association's Model Rules of Professional Conduct and the Code of Professional Responsibility as well as an understanding of the underlying issues and a perspective within which to evaluate them. In addition, the course examines the distribution of legal services to poor and non-poor clients.

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**Performance Highlights:**

You methodically identified and analyzed the professional responsibility issues in the fact situation and not only referenced the rules that were most likely violated by the lawyers but also cited relevant caselaw that we covered in the class in support of your conclusions of misconduct by the lawyers. I was very impressed by the care you took in determining whether there were sufficient facts to support your views as to whether a rule was or was not violated and the analyses you wrote demonstrated an incisive thought process on your part. Outstanding examination.

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<b>Date:</b>	1.21.2023 1:18PM
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**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13536  
**Course Title:** LSSC: Research & Writing  
**Course ID:** LAW 6165  
**Credits:** 2  
**Term:** Spring 2022 Law Semester  
**Instructor :** Meise, Alexandra  
**Grade:** Honors

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**Course Description:**

Competent and effective legal research and writing skills are the foundation for students' success in law school and in their legal careers. In LSSC's Legal Analysis, Research and Writing component, students learn about the organization of the American legal system, the sources and construction of laws, and how the application of laws may vary with the specific factual situation. Students learn how to research the law to find applicable legal rules, how to analyze and apply those rules to a factual situation, and how to communicate their legal analysis clearly and concisely to different audiences.

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**Performance Highlights:**

Lily performed very well in the in the skills component of the LSSC course. She demonstrated strong research, writing and analytical skills, with the following highlights:

- successfully completed a series of memorandum assignments, beginning with objective writing in the fall and transitioning to persuasive writing during the spring semester;
- demonstrated marked improvement with each writing assignment, culminating with a persuasive memo on a trial motion;
- demonstrated an increasing ability to find relevant authority and apply it in a legal analysis;
- drafted an analysis in the final memo that was supported by facts and law;
- demonstrated steady improvement of citation skills and a solid performance on in-class assessments;
- demonstrated very strong oral communication and advocacy skills, particularly in the culminating oral argument exercise;
- was professional and timely with all assignments; and
- was collaborative and receptive to feedback.

Lily's performance in the culminating oral advocacy exercise was one of the best in the class. It was an absolutely stellar.

It was a pleasure to have Lily in class!

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**Date:** 6.2.2022 10:03AM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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<b>Student:</b>	Malloy, Lily
<b>Exam #:</b>	13536
<b>Course Title:</b>	Legal Skills in Social Context
<b>Course ID:</b>	LAW 6160
<b>Credits:</b>	2
<b>Term:</b>	Spring 2022 Law Semester
<b>Instructor :</b>	Meise, Alexandra
<b>Grade:</b>	Honors

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**Course Description:**

The LSSC Social Justice component immediately applies students' legal research and writing skills in using law as a tool for social change. LSSC links students' pre-law school thinking with the new legal culture in which they find themselves. In the first semester, they begin by forging their own team lawyering dynamic in discussing assigned readings and in preparing, and presenting, several advocacy exercises and written assignments. In the second semester, students apply and consolidate their new legal research and writing skills in addressing an intensive real-life social justice project for a selected client organization. LSSC student teams develop their legal and cooperative problem-solving skills and knowledge while producing real client work of a quality that far exceeds the ordinary expectations of first-year law students. May be repeated once.

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**Performance Highlights:**

LO14 completed a project on climate migration issues on behalf of a humanitarian organization that supports and helps resettle thousands of refugees in the United States and across the world.

As a collective, they prepared a comprehensive report for the organization identifying and describing national security challenges presented by climate change generally and its effects on climate migration and U.S. agricultural sectors in particular. They also made recommendations on policy, legislative, and advocacy actions that could be taken to address the dual challenges of climate migration and climate change's effects on major sectors of the U.S. economy. The organizational client was extremely pleased with the students' work product and noted their intention to incorporate it into their policy and legal strategies going forward.

In preparation for that final report, throughout the year the LO interviewed multiple immigration, migration, national security, and legislative experts and other individuals working on the front lines of policy making, law drafting, and law making. Most of the report drafting took place in the spring. To facilitate this, the class undertook significant background research in the fall. In the fall, the class was broken into four separate sub-groups, with each group doing extensive legal and policy research on one of the following subject areas: U.S. federal legislative mechanisms and policy; U.S. immigration laws & frameworks; subnational U.S. policy and economic development approaches to climate change; and international community approaches to climate displacement.

In the fall, Lily worked on the U.S. immigration laws and frameworks team. In the spring, she worked on the international and domestic case studies team and the cite-checking team. Cite-checking can often be a thankless task, but Lily's attention to detail in cite-checking and the public-facing community presentation helped ensure the final written work product and presentation were aesthetically pleasing, professional, and without glitches.

I watched Lily's public-speaking skills blossom over the course of the year, and she did a fantastic job in the final presentation. She took on a presenter role when many students did not, showing her ability to step up to the plate and go above and beyond as a team member. She also was able to communicate information clearly to the client, explaining the evolution of the students' research over the course of a year and responding accurately to complex questions in terms digestible to non-lawyers. She was a pleasure to have in class.

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**Date:** 6.2.2022 10:02AM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13536  
**Course Title:** Constitutional Law  
**Course ID:** LAW 6101  
**Credits:** 4  
**Term:** Spring 2022 Law Semester  
**Instructor :** Davis, Martha  
**Grade:** Honors

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**Course Description:**

Studies the techniques of constitutional interpretation and some of the principal themes of constitutional law: federalism, separation of powers, public vs. private spheres, equality theory and rights analysis. The first part of the course is about the powers of government. The second part is an in-depth analysis of the 14th Amendment.

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**Performance Highlights:**

Highlights:

- Your exam included very good use of case law, demonstrating an understanding of individual rights and congressional power, and an excellent understanding of state action.
  - Your midterm, take-home assignment, an analysis of a complex equal protection problem, was excellent.
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**Date:** 5.31.2022 3:46PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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<b>Student:</b>	Malloy, Lily
<b>Exam #:</b>	13536
<b>Course Title:</b>	Contracts
<b>Course ID:</b>	LAW 6102
<b>Credits:</b>	5
<b>Term:</b>	Spring 2022 Law Semester
<b>Instructor :</b>	Saito, Blaine
<b>Grade:</b>	Honors

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**Course Description:**

This course examines the legal concepts governing consensual and promissory relationships, with emphasis on the historical development and institutional implementation of contract theory, its relationship and continuing adaptation to the needs and practice of commerce, and its serviceability in a variety of non-commercial contexts. Topics covered include contract formation, the doctrine of consideration, remedies for breach of contracts, modification of contract rights resulting from such factors as fraud, mistake and unforeseen circumstances, and the modern adaptation of contract law to consumer problems. This course also introduces students to the analysis of a complex statute: the Uniform Commercial Code.

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**Performance Highlights:**

## Question 1

You did a good job on the issue of the parol evidence rule, delegation, and economic waste. You discussed the statute of frauds, specific performance for land, and expectation damages.

## Question 2

This was a strong answer. You did a good job analyzing the issues of requirements contracts, UCC § 2-207, course of performance on the delivery location, gap fillers, course of performance on the type of basis, perfect tender, warranty of merchantability, and duress. You also did pretty well in discussing damages.

## Question 3

You showed an understanding of the doctrine and the key policy motivations behind it. You also dealt with the themes of the course.

You participated well in class. I appreciated having you this spring.

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<b>Date:</b>	5.31.2022 3:24PM
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**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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<b>Student:</b>	Malloy, Lily
<b>Exam #:</b>	13536
<b>Course Title:</b>	Criminal Justice
<b>Course ID:</b>	LAW 6103
<b>Credits:</b>	4
<b>Term:</b>	Spring 2022 Law Semester
<b>Instructor :</b>	Medwed, Daniel
<b>Grade:</b>	High Honors

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**Course Description:**

In this course, students are introduced to the fundamental principles that guide the development, interpretation and analysis of the law of crimes. They are also exposed to the statutory texts—primarily the Model Penal Code, but also state statutes. In addition, students are introduced to the rules and principles used to apportion blame and responsibility in the criminal justice system. Finally, students examine the limits and potential of law as an instrument of social control.

**Performance Highlights:**

This course had four primary goals. I hoped to (1) provide instruction regarding the substantive law of crimes in the United States, namely, the creation, definition and analysis of offenses and defenses; (2) introduce you to some of the major constitutional principles of criminal procedure; (3) develop skills related to statutory interpretation and fact analysis; and (4) give you a sense of how the criminal justice system operates in practice. My aim for the final examination was to test your ability to spot legal issues and apply legal doctrine to several complicated fact scenarios. Specifically, I sought to evaluate your familiarity with and understanding of the Model Penal Code (MPC), laws in non-MPC jurisdictions and general principles of constitutional criminal procedure related to the Fourth and Fifth Amendments.

**Highlights**

- You showed strong overall issue-spotting skills on the final exam
- Your final exam answers were also well-organized
- In terms of substance, your exam demonstrated a commendable grasp of the different homicide categories and the approaches in various states

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**Date:** 5.31.2022 2:33PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13042  
**Course Title:** Legal Skills in Social Context  
**Course ID:** LAW 6160  
**Credits:** 2  
**Term:** Fall 2021 Law Semester  
**Instructor :** Meise, Alexandra  
**Grade:** Honors

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**Course Description:**

The LSSC Social Justice component immediately applies students' legal research and writing skills in using law as a tool for social change. LSSC links students' pre-law school thinking with the new legal culture in which they find themselves. In the first semester, they begin by forging their own team lawyering dynamic in discussing assigned readings and in preparing, and presenting, several advocacy exercises and written assignments. In the second semester, students apply and consolidate their new legal research and writing skills in addressing an intensive real-life social justice project for a selected client organization. LSSC student teams develop their legal and cooperative problem-solving skills and knowledge while producing real client work of a quality that far exceeds the ordinary expectations of first-year law students. May be repeated once.

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**Performance Highlights:**

Legal Skills in Social Context is a year-long course. Please refer to the Spring 2022 semester for the final evaluation.

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**Date:** 6.2.2022 3:42PM



**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13042  
**Course Title:** LSSC: Research & Writing  
**Course ID:** LAW 6165  
**Credits:** 2  
**Term:** Fall 2021 Law Semester  
**Instructor :** Meise, Alexandra  
**Grade:** Honors

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**Course Description:**

Competent and effective legal research and writing skills are the foundation for students' success in law school and in their legal careers. In LSSC's Legal Analysis, Research and Writing component, students learn about the organization of the American legal system, the sources and construction of laws, and how the application of laws may vary with the specific factual situation. Students learn how to research the law to find applicable legal rules, how to analyze and apply those rules to a factual situation, and how to communicate their legal analysis clearly and concisely to different audiences.

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**Performance Highlights:**

LSSC: Research & Writing is a year-long course. Please refer to the Spring 2022 semester for the final evaluation.

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**Date:** 6.2.2022 3:31PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13042  
**Course Title:** Property  
**Course ID:** LAW 6105  
**Credits:** 4  
**Term:** Fall 2021 Law Semester  
**Instructor :** Swanson, Kara  
**Grade:** Honors

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**Course Description:**

This course covers the major doctrines in American property law, including trespass, servitudes, estates in land and future interests, landlord-tenant relationships, nuisance, and takings. Students are introduced to rules, policies, and current controversies.

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**Performance Highlights:**

Demonstrated strong ability to understand and explain property law, using case law and statutes.

Demonstrated strong ability to identify issues in complicated fact patterns.

Demonstrated strong ability to analyze legal issues, predict or advocate for outcome, and justify conclusions with support.

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**Date:** 1.20.2022 6:34PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13042  
**Course Title:** Civil Procedure  
**Course ID:** LAW 6100  
**Credits:** 5  
**Term:** Fall 2021 Law Semester  
**Instructor :** Daynard, Richard  
**Grade:** Pass

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**Course Description:**

Introduces students to the procedural rules that courts in the United States use to handle noncriminal disputes. Designed to provide a working knowledge of the Federal Rules of Civil Procedure and typical state rules, along with an introduction to federalism, statutory analysis, advocacy, and methods of dispute resolution.

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**Performance Highlights:**

Lily Malloy's exam properly resolved most of the issues presented. She also did a nice job in her in-class case presentation.

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**Date:** 1.20.2022 6:33PM

**Northeastern University School of Law**  
**416 Huntington Avenue**  
**Boston, Massachusetts 02115**

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**Student:** Malloy, Lily  
**Exam #:** 13042  
**Course Title:** Torts  
**Course ID:** LAW 6106  
**Credits:** 4  
**Term:** Fall 2021 Law Semester  
**Instructor :** Simon, David  
**Grade:** Honors

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**Course Description:**

This course introduces students to theories of liability and the primary doctrines limiting liability, which are studied both doctrinally and in historical and social context. The course includes a brief consideration of civil remedies for intentional harms, but mainly focuses on the problem of accidental injury to persons and property. It also provides an introductory look at alternative systems for controlling risk and allocating the cost of accidents in advanced industrial societies.

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**Performance Highlights:**

- Demonstrated strong ability to use analogical reasoning, drawing on case law and legal rules; and to make arguments, justify them, and draw conclusions.
- Demonstrated strong ability to explain and analyze tort law principles, doctrines, and policies.
- Demonstrated strong ability to organize and answer and analyze a complicated fact pattern.

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**Date:** 1.20.2022 6:31PM

## Spring 2023: Lily J Malloy - Spring 2023 Co-op (97027) (MG + M LLP (Boston, MA))

### EMPLOYER FINAL EVALUATION

Approve	Yes
Requested On	Apr 24, 2023 5:20 pm
Student	Lily J Malloy
Date Employed From:	January 9, 2023
Date Employed To:	April 21, 2023
Address	125 High Street, Oliver Street Tower, 6th Floor Boston, MA
Employer Name	MG + M LLP (Boston, MA)
1) Areas of law engaged in, and level of proficiency	Lily worked on a wide variety of complex litigation matters. She assisted on business litigation, construction litigation, asbestos litigation, intellectual property litigation, products liability, real estate litigation, toxic tort liability matters.
2) Skills demonstrated during the co-op	Lily demonstrated exceptional research and writing skills, well beyond what we normally expect in a law student. Lily was able to research legal questions, analyze potential liability issues and communicate her analysis in a thoughtful manner. She drafted several motions and memorandums, correctly applying the law and rules to the facts. She was also an excellent communicator.
3) Professionalism, work ethic, and responsiveness to feedback	Lily had an unparalleled ability to analyze legal issues, conduct legal research and write legal memoranda. She was also exceptionally professional. She communicated with attorneys and was always willing to accept a new assignment and help out her team. She asked questions about any feedback and took the time to improve her work.
4) Ability to work with colleagues and clients; ability to integrate knowledge from other disciplines	Lily was a pleasure to have in the office. She accepted feedback and showed a willingness to learn and improve. She was professional with clients and a great addition to all teams.
Submitted by:	Marissa L Morte

Date submitted: April 25, 2023

Help Desk: 703-373-7040 (Hours: Mon-Fri, 9am-8pm EST)  
[Privacy Policy](#) | [Terms of Use](#)

## Summer 2022 : Lily J Malloy - Summer 2022 Co-op (91463) (U.S. Dist. Court, Dist. of Mass., Judge Saris (Boston, MA))

### EMPLOYER FINAL EVALUATION

Approve Yes

Requested On Aug 23, 2022 3:02 pm

Student Lily J Malloy

Date Employed From: May 9, 2022

Date Employed To: August 19, 2022

Address United States District Court - Boston Moakley Courthouse

Employer Name U.S. Dist. Court, Dist. of Mass., Judge Saris (Boston, MA)

**1) Areas of law engaged in, and level of proficiency** Lily wrote memoranda and drafted opinions on a variety of substantive and procedural issues, including motions for sanctions, social security benefits, disability discrimination, and remand to state court. She demonstrated strong research skills that allowed her to develop deep knowledge on each subject. Lily did a particularly excellent job on a memorandum concerning a motion to remand; she organized her analysis well and assessed each issue comprehensively.

**2) Skills demonstrated during the co-op** Lily has all of the skills necessary to be a young litigator: she has excellent research, writing, and analytical ability. Another particularly impressive skill is her ability to learn quickly on the fly; she only needs to be told how to do something once before demonstrating mastery.

**3) Professionalism, work ethic, and responsiveness to feedback** Lily is extremely hard-working, enthusiastic, and personable. Whether because of her previous legal experiences, her natural instincts, or some combination of the two, she showed immediately that she knows how to comport herself in a professional legal environment. She turned in all assignments on time, asked good questions, and used feedback to improve her capabilities. Lily always volunteered to help when asked.

**4) Ability to work with colleagues and clients; ability to integrate knowledge from other disciplines** Lily's interpersonal skills will serve her well when working with clients and colleagues, although she did not have many opportunities to do that during this co-op.

**5) Further details about the student's performance**

Lily was the rare intern who became part of the fabric of chambers and made herself indispensable. In her very first week, she oversaw the organization of exhibits in a complex criminal trial, saving the parties and chambers staff hours of additional work. She threw herself into her writing assignments and consistently produced work that was strong on both substance and writing skills. Lily was also a joy to work with, bringing a positive attitude and an infectious enthusiasm for the work of the court.

**Submitted by:** lisa pezzarossi

**Date submitted:** August 23, 2022

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May 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to highly recommend Lily Malloy for a clerkship in your chambers. She was a Summer 2022 intern from Northeastern University School of Law in my chambers.

Lily engaged in multiple substantive areas of law during her co-op term. She wrote six memoranda and draft opinions that showcased her writing, research, and analytical abilities and assisted in two trials.

Notably, Lily did an excellent job on a memorandum concerning a motion to remand; she organized her analysis well and assessed each issue comprehensively. Lily is eager to assist and made very valuable contributions to chambers. In her very first week, she oversaw the organization of exhibits in a complex criminal trial, saving the parties and chambers staff hours of additional work.

Lily's work was timely, careful and well-reasoned. She also has stellar interpersonal skills and did a wonderful job of clearly communicating her progress on each project. Lily was the rare intern who became part of the fabric of chambers and made herself indispensable. She forged strong relationships with the court staff as well as the other interns, which is a testament to her positive and kind attitude. Please call me if there are any questions.

Very truly yours,

Patti B. Saris  
U.S. District Judge

Patti Saris - Honorable\_Patti\_Saris@mad.uscourts.gov



May 22, 2023

To Whom It May Concern:

I write this letter in vociferous support of Lily Malloy's application to serve as your law clerk following her 2024 graduation from Northeastern University School of Law (NUSL). I have known Lily since her first days at NUSL two years ago. In that time, I have had the pleasure of getting to know her and her work as both a student and as my Teaching Assistant, and based on her performance in these roles, I know she would be a valuable contributor to your chambers.

I teach in NUSL's Legal Skills in Social Context (LSSC) program, where Lily was my student in for the full 2021-22 academic year. LSSC consists of two courses: a legal research and writing course and a smaller "law office" experiential course. In the latter, students work on a project for a "partner organization" applying their burgeoning legal skills to a formal project addressing a pressing social justice issue. Based on her LSSC performance as a 1L, I asked her to serve as one of my TAs as a 2L.

As a student, Lily performed very well in my legal research and writing course. She demonstrated strong research, writing, and analytical skills throughout the year across a complex series of assignments. She was very receptive to feedback and her research, writing, and citation skills improved with each assignment. Her assignments and communications were always professional and timely. Lily's contributions to class discussions made them better; I knew when she raised her hand that what she was about to share would be thoughtful and valuable. Lily also displayed very strong oral communication and advocacy skills; without question, her performance in the culminating oral advocacy exercise (oral arguments on a motion to suppress inculpatory statements) was *the best* in the entire class.

Lily also performed very well in my "law office" course, where her contributions proved essential to the class's performance successes. She was a consummate team player whose work researching and editing the project deliverables helped ensure the class met its obligations and produced very high quality, professional work-products for our partner organization. When I invited the class to submit to me "shout outs" of gratitude for their fellow classmates—especially for behind-the-scenes contributions I may not have seen—the acclaim for Lily was universal. Here are just a few highlights:

- "I had the opportunity to work in sub-groups with [Lily] ... and it was a joy. [She was] so responsive, supportive, and quick to reply whenever I may have needed help."

- “I think Lily did a lot of work that sometimes goes unnoticed because she isn’t vocal about her contributions. But we spent hours in the library every single weekend working on [law office tasks] and helping each other through editing, substantive pieces, and fact/cite checking.”
- Lily “easily collaborate[d] with others and demonstrated that [she is an] excellent team member to work with. I think this will serve [her] extremely well in the workplace. [She was] organized, helped ... other[s] out, quickly responded to questions, and did not ease off the gas until we finished the final product.”

As a TA, I saw Lily’s skills as a professional colleague and collaborator really shine. Lily served as a leader, a guide, a trainer, and a mentor to the twenty-eight students in my legal research and writing course. She helped design assignments and reviewed, edited, and corrected assorted types of student work-product. She also collaborated with me and her fellow TA on lesson design and instruction techniques. Lily demonstrated excellent presentation and project management skills in her work with her fellow TA to help create Bluebook lessons and assessments and to draft and circulate weekly “round-up” emails to students summarizing assignments and take-aways. She also demonstrated fantastic attention to detail. The students raved about how Lily and her fellow TA were great at making the arcane Bluebook material approachable. I do not have enough positive adjectives to articulate how grateful I am to Lily for anticipating student questions, anticipating my needs on assignment prep, and asking excellent questions.

Lily is a fantastic team player and is collaborative and receptive to feedback. She is an efficient and effective researcher and a very strong editor. Her research, writing, and organizational skills, including the ability to manage multiple and overlapping deadlines, will serve her well in her legal career. Lily de-stresses her work places rather than add to the frenzy. The quality of her work and the positive influence of her presence elevate the work of those around her.

I have served a judge on the U.S. Court of Appeals for the First Circuit and multiple judges in the Pre-Trial and Supreme Court Chambers of the Extraordinary Chambers of the Courts of Cambodia/United Nations Assistance to the Khmer Rouge Tribunals.<sup>1</sup> Before pivoting to academia, I spent over a decade in private practice, culminating with being a litigation partner at a major U.S. law firm. In these roles, I supervised many attorneys, made many hiring decisions about law students and attorneys, and influenced others’ hiring decisions regarding many more. Through these experiences, I have seen many succeed and fail in chambers as a clerk and in practice as an attorney. Based on the quality of Lily’s performance as a student and as a Teaching Assistant, and on my interactions with her as her professor and work supervisor, I know Lily has what it takes to have a long and successful legal career and I have every confidence that she will be an extremely effective law clerk and an asset to your chambers.

---

<sup>1</sup> This court is colloquially known as the Khmer Rouge War Crimes Tribunal.

Please do not hesitate to contact me with any questions about Lily.

Sincerely,

A handwritten signature in blue ink that reads "Alexandra A.K. Meise". The signature is written in a cursive, flowing style.

Alexandra A.K. Meise, Associate Teaching Professor  
Northeastern University School of Law  
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Boston, MA 02115

# Northeastern University

## School of Law

May 22, 2023

Recommendation on Behalf of Lily Malloy

Dear Your Honor:

I recommend Lily Malloy, a student in the Class of 2024 at Northeastern University School of Law, for a judicial clerkship.

Based on my interactions with Lily in two classes, Criminal Justice and Evidence, I believe she would be a very strong candidate. Lily earned a "High Honors" in Criminal Justice, and her final examination revealed very good issue-spotting skills and a nice command of the different categories of homicide, which is a very tricky aspect of the course.

On a personal level, I enjoyed each and every interaction with Lily. She seemed very attentive during class, and struck me as having a thoughtful and professional demeanor. She is also a friendly and kind person who would likely be a welcome addition to any workplace.

In sum, I think Lily would fit in nicely with your chambers. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Medwed".

Daniel S. Medwed  
University Distinguished Professor  
Northeastern University  
d.medwed@northeastern.edu  
617 373-6590

**LILY MALLOY**

21 Essex Street, North Reading, MA 01864 • (978) 882-3431 • malloy.li@northeastern.edu

**WRITING SAMPLE**

This writing sample is a bench memorandum that I drafted during my co-op with the Honorable Patti B. Saris, Federal District Court Judge, District of Massachusetts in the Summer of 2022. This memorandum was drafted in anticipation of a Motion to Remand hearing and discusses and analyzes several legal issues, including the 30-day time period for removal to federal court, default in state court, and transfer to another division within the District of Massachusetts. This memorandum has been reviewed by a law clerk and edited in accordance with his recommendations. This writing sample was approved for use by the Honorable Patti B. Saris and personal identifying information has been removed.

## MEMORANDUM

**To:** Judge Saris  
**From:** Lily Malloy  
**Date:** August 8, 2022  
**Case:** Plaintiff v. Defendant A. et al.  
**Re:** Motion to Remand

### OVERVIEW

*Pro se* Plaintiff sought leave to file a Second Amended Complaint in Bristol Superior Court on May 5, 2022. [Dkt 10 at 2]. The Superior Court granted leave to amend on June 10, 2022. [Dkt 10 at 2]. Defendant A removed to this Court on June 30, 2022. [Dkt 10 at 2]. Plaintiff now moves this Court for remand back to state court. [Dkt. 10 at 2]. Plaintiff claims that removal was untimely and Defendants are in default in state court. [Dkt 11 at 1, 3]. Plaintiff alternatively asserts *forum non conveniens* and claims that this case should be transferred to the Central Division in Worcester. [Dkt. 11 at 5].

For the reasons below, I recommend the Court **DENY** the Motion to Remand (Dkt. 10).

### FACTUAL BACKGROUND

#### I. The Parties

Plaintiff (“Plaintiff”) is a primary care physician trained in hair transplant procedures. [Dkt 1-5 at 3]. Plaintiff works and resides in Bristol County, Massachusetts. [Dkt 1-5 at 3].

Defendant A (“Defendant A”) operates in Massachusetts and is headquartered in Suffolk County. [Dkt 1-5 at 3]. Defendant B is an employee of Defendant A and resides in Suffolk County. [Dkt 1-5 at 3]. Defendant C was the Board Chair for Defendant A and resides in Essex County. [Dkt 1-5 at 3]. Defendant D was the President and CEO of Defendant A and resides in Plymouth County. [Dkt 1-5 at 3].

#### II. The Dispute

This case arose out of a dispute between Plaintiff, his former patient, Defendant B, and Plaintiff’s medical malpractice insurer, Defendant A. [Dkt. 23 at 3]. In 2017, Plaintiff performed an unsuccessful hair transplant procedure on Defendant B and, as a result, Defendant B experienced sudden hair loss. [Dkt. 1 at 2]. Plaintiff alleges that Defendant B accessed confidential data maintained by Defendant A, his employer, reflecting claims against Plaintiff at the Board of Registration in Medicine (“BORIM”). [Dkt. 23 at 3]. Defendant B allegedly used that information to “extort” a \$4,000 settlement from Plaintiff and to file his own complaint with

the BORIM against Plaintiff. **[Dkt. 23 at 3]**. This caused the BORIM to move forward with adjudicatory proceedings and in May 2019, Plaintiff voluntarily agreed to cease practicing medicine while the complaint was being adjudicated. **[Dkt. 23 at 3-4]**. Upon learning that Plaintiff's medical license had been suspended by virtue of his agreement with the BORIM, Defendant A cancelled Plaintiff's malpractice insurance policy. **[Dkt. 1 at 2]**. Plaintiff was suspended by the BORIM in March 2021, but was permitted to return to practice under a Probation Agreement in May 2021. **[Dkt. 23 at 4]**.

### PROCEDURAL HISTORY

On February 12, 2021, Plaintiff filed his original, *pro se* Complaint against Defendant A and Defendant B. **[Dkt. 1 at 1]**. On May 26, 2021, Plaintiff (who by then had retained counsel) filed an Amended Complaint, asserting three claims against Defendant A (tortious interference, violation of c. 93A, and breach of fiduciary duty) and three claims against Defendant B (malicious prosecution, abuse of process, and tortious interference). **[Dkt. 23 at 4]**. Defendant A and Defendant B moved to dismiss, and the court set a hearing date of March 10, 2022. **[Dkt. 23 at 4]**. Before the hearing, Plaintiff's counsel moved to withdraw, which the court allowed after the hearing. **[Dkt. 23 at 5]**.

On March 30, 2022, the Superior Court granted Defendant B's motion to dismiss and dismissed him from the case. **[Dkt. 23 at 5]**. The court also allowed Defendant A's motion regarding the c. 93A and tortious interference claims, but declined to dismiss the breach of fiduciary duty claim. **[Dkt. 23 at 5]**. Defendant A moved for reconsideration or, in the alternative, dismissal pursuant to Mass. R. Civ. P. 12(b)(10). **[Dkt. 23 at 6]**. Following a hearing, the Superior Court denied Defendant A's motions. **[Dkt. 23 at 6]**.

Plaintiff served the Second Amended Complaint ("SAC") on Defendant A and Defendant B on May 5, 2022.<sup>1</sup> **[Dkt. 10 at 2, Dkt. 11 at 2, Dkt. 23 at 9]**. The SAC sought to add two new defendants, Defendant C and Defendant D. **[Dkt. 23 at 7]**. The SAC also asserted claims arising under federal law including the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (Count 1); the Federal Wiretap Act, 18 U.S.C. § 2520 (Count 2); and the federal Defend Trade Secrets Act, 18 U.S.C. § 1836 (Count 4). **[Dkt. 1 at 3]**. However, the SAC did not list any of the claims against Defendant B that were in the Amended Complaint and did not list the breach of fiduciary duty

<sup>1</sup> In their Joint Opposition to Plaintiff's Motion for Remand, Defendants state that Plaintiff served the Motion to Amend and sought leave to file the SAC on May 12, 2022. **[Dkt. 23 at 7]**.



claim against Defendant A, which was the only claim to survive the motion to dismiss. **[Dkt. 23 at 7]**. Defendant A and Defendant B filed oppositions arguing that the amendments were untimely, futile, and improper. **[Dkt. 23 at 7]**. On June 10, 2022, the Superior Court granted leave to amend and allowed Plaintiff's SAC. **[Dkt. 23 at 7-8]**.

On June 30, 2022, Defendant A removed to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. **[Dkt. 1 at 1, Dkt. 23 at 8]**. On July 1, 2022, Plaintiff moved for default judgement with the Superior Court, arguing that Defendants had not responded to the SAC within ten (10) days. **[Dkt. 23 at 8]**. On July 6, 2022, the Superior Court rejected the motion for default because the case had already been removed to this Court. **[Dkt. 23 at 8]**.

On July 7, 2022, Plaintiff moved to remand this case back state court. **[Dkt. 10]**.

### LEGAL STANDARD

A defendant may remove any civil action from state court to federal district court so long as the federal court has original jurisdiction. See 28 U.S.C. § 1441(a). Federal district courts have original jurisdiction over civil actions that raise a federal question. See 28 U.S.C. § 1331. The statute governing removal in this case is 28 U.S.C. § 1446. Under 28 U.S.C. § 1446(b)(3),

[I]f the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

Defendants have the burden of showing a basis for federal jurisdiction. See Danca v. Private Health Care Sys., Inc., 185 F.3d 1, 4 (1st Cir. 1999). Additionally, documents filed by *pro se* plaintiffs are “to be liberally construed” and “must be held to less stringent standards than formal pleadings drafted by lawyers,” Estelle v. Gamble, 429 U.S. 97, 106 (1976).

### ANALYSIS

This case raises three issues: (1) was removal timely, (2) are Defendants in default in state court and if so, does that matter, and (3) should this case be transferred to the Central Division in Worcester? The answer to each question dictates that this case should stay in front of this Court.

#### I. Removal Was Timely

The first issue of this case concerns the date that the present action became removable. This case was removed on June 30, 2022. **[Dkt. 23 at 8]**.

While the First Circuit has not addressed whether the 30-day removal period begins at the date the proposed amended complaint was served or at the date the court allows leave to file the amended complaint, other circuits and district courts provide some guidance.

A majority of courts have held that the removal period starts to run when the court grants the motion to amend. See e.g., Freeman v. Blue Ridge Paper Products, Inc., 551 F.3d 405, 410 (6th Cir. 2008) (removal was timely because defendants removed within 30 days of the written order allowing the motion to amend); Sullivan v. Conway, 157 F.3d 1092, 1094 (7th Cir. 1998) (“Until the state judge granted the motion to amend, there was no basis for removal. Until then, the complaint did not state a federal claim. It might never state a claim, since the state judge might deny the motion. . . . When the motion was granted, the case first became removable . . .”); Concordia Partners, LLC v. Pick, No. 2:14-cv-09-GZS, 2014 WL 4060253, at \*2 (D. Me. Aug. 14, 2014) (the 30-day removal time period begins when the state court allows the amendment of the pleading); Disher v. Citigroup Glob. Mkts., Inc., 487 F. Supp. 2d 1009, 1016 (S.D. Ill. 2007) (“[A] plaintiff’s moving papers in state court generally do not create a right to remove under Section 1446(b); rather, the event triggering a right to remove is a state-court order granting a plaintiff’s motion”).

See also Universal Semiconductor, Inc. v. Tuoi Vo, No. 5:16-cv-04778-EJD, 2017 WL 2719987, at \*2-3 (N.D. Cal. Feb. 9, 2017) (removal clock began ticking when the state court granted leave to amend); Vasquez v. First Student, Inc., No. 2:14-cv-06760-0DW, 2014 WL 6837279, at \*5 (C.D. Cal. Dec. 3, 2014) (“[B]ecause Defendant’s 30-day window to remove began on July 31, 2014 when Plaintiff was granted leave to amend her Original Complaint, Defendants Notice of Removal was timely filed”); Graphic Scanning Corp. v. Yampol, 677 F. Supp. 256, 258 (D. Del. 1988) (“Not until the state court rules on such a motion, and the basis for federal jurisdiction becomes evident, does the time period for removal commence”).

A minority of courts have held that the 30-day removal clock starts when the defendants are served with a motion to amend, since that puts them on notice of the case’s removability. See Harriman v. Liberian Maritime Corp., 204 F. Supp. 205, 206–07 (D. Mass. 1962) (“[O]nce such motion is filed defendant is then on notice that plaintiff is claiming that his case involves the jurisdictional amount and must remove or lose his right to do so within [thirty] days therefrom”); Webster v. Sunnyside Corp., 836 F. Supp. 629, 631 (S.D. Iowa 1993) (“Defendants waived their right to remove this case to federal court by not serving their notice of removal to federal court

within thirty days after the service on them of the motion to amend”). However, this approach faces criticism because it would allow removal of a case, despite the fact that the motion seeking leave to amend may ultimately be denied by the state court. See Lucente S.P.A. v. Apik Jewelry, Inc., No. cv-07-04005 MMM (RZx), 2007 WL 7209938, at \*3 (C.D. Cal. Oct. 3, 2007).

Here, Plaintiff asserts that the clock for the 30-day removal period started when he served the SAC on Defendants on May 5, 2022, and thus removal was untimely. **[Dkt. 11 at 2-3]**. Defendants argue that their removal to this Court was timely because the clock for removal did not start until the Superior Court granted leave to amend and filed the SAC on June 10, 2022. **[Dkt. 23 at 9]**. In light of the above case law, I recommend that the Court agree with Defendants.

Plaintiff uses Romulus v. CVS Pharmacy, Inc., 770 F.3d 67 (1st Cir. 2014) to argue that the removal clock started ticking on May 5, 2020. **[Dkt. 11 at 2]**. However, as Defendants point out, Romulus, concerns removal pursuant to the Class Action Fairness Act’s amount-in-controversy requirement and does not involve removal based on a proposed amended pleading. **[Dkt. 23 at 11]**. Rather, the defendant removed after receiving an e-mail from plaintiffs that illuminated issues related to plaintiffs’ damages calculation. See Romulus, 770 F.3d at 70-71. The First Circuit held that “Section 1446(b)’s thirty-day clocks are triggered only when the plaintiffs’ complaint or plaintiffs’ subsequent paper provides the defendant with sufficient information to easily determine that the matter is removable” and that “Section 1446(b)(3) does not apply until removability can first be ascertained from the plaintiffs’ own papers.” Id. at 72, 74. The court went further and noted that a “defendant must remove within thirty days of a paper, filed by the plaintiffs, that explicitly specifies the amount of monetary damages sought or sets forth facts from which an amount in controversy in excess of \$5 million can be readily ascertained.” Id. at 76 (citing Cutrone v. Mortg. Elec. Registration Sys., Inc., 749 F.3d 137, 145 (2d Cir. 2014)).

The subsequent paper in Romulus was an email that informed the defendants of the removability of the case to federal court. Here, unlike in Romulus, the subsequent paper that gave notice to Defendants of the removability of the case was the SAC, which the state court needed to allow. Thus, Defendants are correct that Romulus does not pertain to the issue in this case.

In his reply, Plaintiff claims that removal is also barred by laches because Defendants were on notice that the case could be removed since February 2022. **[Dkt. 27 at 5]**. Further,

Plaintiff contends that Dietrich v. Boeing Co., 14 F.4th 1089 (9th Cir. 2021) supports the plain language established in Romulus. [Dkt. 27 at 3]. The Ninth Circuit in Dietrich evaluated the pathway for removal under § 1446(b) and at what point removal could first be ascertained. See Dietrich, 14 F.4th at 1093. The court explained that the term “ascertain” as used in § 1446(b)(3) is different from the term “set forth” as used in § 1446(b)(1) in that “‘ascertain’ means ‘to find out or learn *with certainty*.’” Id. Ascertain “‘seems to require a greater level of certainty or that the facts supporting removability be stated unequivocally.’” Id. (quoting Bosky v. Kroger Tex., LP, 288 F.3d 208, 211 (5th Cir. 2002)). With that definition in mind, the court then cited to Romulus to show that the First Circuit required “‘a clear statement of the damages sought.’” Dietrich, 14 F.4th at 1093 (citing Romulus, 770 F.3d at 75). The court held that “an amended pleading, motion, order, or other paper must make a ground for removal unequivocally clear and certain before the removal clock begins under the second pathway of § 1446(b)(3).” Dietrich, 14 F.4th at 1095. In that case, the grounds for removal became clear when the plaintiff submitted discovery responses showing that his claims related to his time as a federal officer—not because he filed an amended complaint. See id. at 1095. The Dietrich case can ultimately be used to support Defendants’ argument because ground for removal in this case was not unequivocally clear until the state court granted leave to amend and filed the SAC. Thus, I suggest that the Court deny Plaintiff’s argument that removal is barred by laches because it was not unequivocally clear that the case could be removed until the state court granted leave to amend.

I recommend that the Court follow the majority of courts and hold that the 30-day clock for removal begins at the time that the state court grants leave to amend. Thus, Defendants timely filed a notice of removal.

## **II. Defendants are Not in Default in State Court, and if They Were, it Would Not Matter**

Plaintiff also argues that this case should be remanded because Defendant A and Defendant B are in default in state court. [Dkt. 11 at 3]. Plaintiff contends that Defendants had until June 20, 2022, ten (10) days after the court allowed the SAC, to file a responsive pleading. [Dkt. 11 at 3]. Defendant A and Defendant B did not file responsive pleadings, and thus Plaintiff argues that they are in default. [Dkt. 11 at 3]. Defendants argue that they are not in default because the Superior Court has not entered a default judgement and has rejected Plaintiff’s motion for default. [Dkt. 23 at 12]. Defendants further argue that the only applicable deadline

for responding to the SAC is under federal rules, as the case has been removed to this Court. **[Dkt. 23 at 12].**

In the First Circuit, “[i]t is clear that once a removal petition has been filed and proper notice given adverse parties in state court, the district court has exclusive jurisdiction over the case.” Berberian v. Gibney, 514 F.2d 790, 792 (1st Cir. 1975) (citing Georgia v. Rachel, 384 U.S. 780, 797 n. 27 (1966)). See also Butner v. Neustadter, 324 F.2d 783, 787 (9th Cir. 1963) (holding that “[t]he federal court takes the case as it finds it on removal and treats everything that occurred in the state court as if it has taken place in federal court”). Here, the state court chose not to enter default judgement against Defendants, thus Defendants are not in default. And, even if the Superior Court had entered judgment, this Court could still vacate a default judgment. Id. at 793. See also Surabian v. HSBC Bank USA, NA as Tr. for Sequoia Mortg. Tr., No. 12-1556, 2013 WL 12476754, at \*1 (1st Cir. Sept. 16, 2013) (rejecting plaintiff’s argument that the defendant’s answer to the complaint was untimely because the state court never entered default after the case was removed to federal court); Halter v. Nat’l Farmers Union Prop. & Cas. Co. of Denver, 502 F. Supp. 736, 737 (D. Ark. 1980) (rejecting plaintiff’s argument that removal was improper where defendant did not file a responsive pleading in state court within the allotted time period).

Because the Superior Court did not enter default judgement against Defendants before or after the case was removed, Defendants are correct in arguing that remand based on a nonexistent default judgment would be inappropriate.

### **III. This Case Should Not be Transferred to the Central Division in Worcester**

The final issue is whether this case should be transferred to the Central Division in Worcester. Plaintiff asserts *forum non conveniens* and claims that having to travel to Boston and pay for parking each time would be an insurmountable burden. **[Dkt. 11 at 5].** Plaintiff argues that the only federal court that would be workable is the Central Division in Worcester. **[Dkt. 11 at 5].** Defendants argue that this case should not be transferred to the Central Division in Worcester because the District of Massachusetts has no statutory division and that it is unsettled whether 28 U.S.C. § 1404(a) applies to the transfer of venue within the District of Massachusetts. **[Dkt. 23 at 13-14].** Defendants argue that transfer should not be allowed because Plaintiff having to drive into Boston and pay parking costs is not “good cause” to transfer. **[Dkt. 23 at 15].**

Under 28 U.S.C. § 1404(a), “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” In evaluating whether to transfer, the court must weigh factors including

(1) the convenience of the parties, (2) the convenience of the witnesses, (3) the relative ease of access to sources of proof, (4), the availability of process to compel attendance of unwilling witnesses, (5) cost of obtaining willing witnesses, and (6) any practical problems associated with trying the case most expeditiously and inexpensively.

Optos, Inc. v. Topcon Med. Sys., Inc., 777 F. Supp. 2d 217, 237 (D. Mass. 2011). The burden of proving that transfer is warranted rests with the party seeking transfer. See Coady v. Ashcraft & Gerel, 223 F.3d 1, 11 (1st Cir. 2000).

Under Local Rule 40.1, Massachusetts constitutes one district with three divisions: the Eastern division in Boston, the Central division in Worcester, and the Western division in Springfield. See L. R. 40.1(c). Under Local Rule 40.1(f), “[a]ny case may be transferred from one division to another division on motion of any party for good cause shown or sua sponte for good cause by the judge to whom the case is assigned.” However, also under the Local Rules, a case shall be assigned to a division if all parties reside in that division. See L.R. 40.1(c)(1),

Plaintiff argues that he would be inconvenienced by having to drive to Boston and pay for parking. **[Dkt. 11 at 5]**. He argues that transfer to Worcester would be less of an insurmountable burden, but it is still an hour away. **[Dkt. 11 at 5]**. I recommend that the Court deny transfer to the Central Division in Worcester. Plaintiff has not shown that transfer is properly warranted. Also, Plaintiff is a resident of North Attleboro, which is in Bristol County. **[Dkt. 23 at 14]**. Defendant C resides in Essex County, Defendant D resides in Plymouth County, and Defendant A and Defendant B reside in Suffolk County. Under the Local Rules, all of these counties are included in the Eastern Division in Boston. L.R. 40.1(c)(1).

Thus, I recommend that the Court deny transfer to the Eastern Division in Worcester.

### CONCLUSION

I recommend that the Court **DENY** Plaintiff’s Motion to Remand (Dkt. 10).

**Applicant Details**

First Name **Halie**  
Last Name **Mariano**  
Citizenship Status **U. S. Citizen**  
Email Address [hmariano@unc.edu](mailto:hmariano@unc.edu)  
Address

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**Chapel Hill**  
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Contact Phone Number **5856987419**

**Applicant Education**

BA/BS From **Bucknell University**  
Date of BA/BS **May 2020**  
JD/LLB From **University of North Carolina School of Law**  
<https://law.unc.edu/>  
Date of JD/LLB **May 10, 2024**  
Class Rank **20%**  
Law Review/Journal **Yes**  
Journal(s) **North Carolina Law Review**  
Moot Court Experience **Yes**  
Moot Court Name(s) **Holderness Moot Court**

**Bar Admission****Prior Judicial Experience**

Judicial Internships/  
Externships **No**

Post-graduate Judicial Law Clerk      **No**

### **Specialized Work Experience**

### **Recommenders**

Gurvich, Rachel  
gurvich@email.unc.edu  
Everett, Luke  
lmeveret@email.unc.edu  
Muller, Eric  
emuller@email.unc.edu  
919.962.7067

**This applicant has certified that all data entered in this profile and any application documents are true and correct.**



**HALIE MARIANO**

623 Coolidge Street, Chapel Hill, NC 27516 | (585) 698-7419 | hmariano@unc.edu

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June 9, 2023

The Honorable Jamar K. Walker  
United States District Court, Eastern District of Virginia  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker:

I am a rising third-year law student at the University of North Carolina School of Law, where I serve as the Executive Comments Editor of the *North Carolina Law Review*, compete on UNC's alternative dispute resolution moot court teams, and facilitate pro bono projects as a member of the UNC Pro Bono Board. I write to apply for a law clerk position in your chambers for the 2024–2025 term. Specifically, working for a judge of color in chambers dedicated to fostering diversity within the profession is an exciting and invaluable opportunity.

While in law school I have honed my research and writing skills. I have written academic pieces for the *North Carolina Law Review* and for my classes, edited pieces for the *Law Review*, and gained practical experience as a summer associate at both Williams & Connolly LLP and McGuireWoods LLP. These experiences confirmed my desire to litigate at the trial level and stirred a passion for diving into new and unfamiliar areas of the law. I am excited to bring these skills to a clerkship position.

As a Korean American adoptee, I hope to bring a unique perspective to chambers. Growing up, I realized that my life could have been radically different if my parents did not adopt me as an infant. Knowing that so many children do not have this opportunity motivates me to take advantage of every experience I can to grow and develop. My unique family composition and multicultural heritage has also encouraged me to give back to others. I have done this during law school by serving as a Guardian ad Litem, where I utilize the lessons and experiences from my childhood to advocate for foster children throughout the legal system.

The combination of my personal background, my time as a four-year Division I student-athlete, and my experiences within large law firms has helped refine my organizational and time management skills. I have also learned to lead and be a team player in various academic, athletic, and professional settings. These skills make me well-suited not only to individual, self-driven work, but also to collaboration with others.

Included in my application is my resume, writing sample, unofficial law school transcript, and letters of recommendation. Thank you for your time and consideration.

Sincerely,



Halie Mariano

## HALIE MARIANO

623 Coolidge Street, Chapel Hill, NC 27516 | (585) 698-7419 | hmariano@unc.edu

### EDUCATION

**University of North Carolina School of Law**, *Chapel Hill, North Carolina*  
J.D., expected May 2024

G.P.A.: 3.675 (top 20% of class)

- Executive Comments Editor, *North Carolina Law Review*, Vol. 102
- Holderness Moot Court, Sports Law Negotiations Team
- Honors Writing Scholar for 1L Legal Research & Writing Program
- Eugene Gressman & Daniel H. Pollitt Oral Advocacy Award (2022)
- UNC Pro Bono Board (2021–23) & 150+ pro bono hours

**Bucknell University**, *Lewisburg, Pennsylvania*

B.S.B.A., *magna cum laude*, Management & Anthropology, May 2020

G.P.A.: 3.820

- Phi Beta Kappa
- Division I Varsity Softball (captain)

### EXPERIENCE

**Williams & Connolly LLP**, Washington, DC

May 2023 – Present

*Summer Associate*

Researched legal issues and drafted memoranda to advise partners and clients in complex civil litigation and appellate matters. Wrote multiple motions in limine to exclude prejudicial evidence in a criminal lawsuit. Worked with attorneys to develop case strategy and provided litigation counseling for Afghan asylum seekers.

**McGuireWoods LLP**, Charlotte, NC

May 2022 – July 2022

*Summer Associate*

Conducted legal research, reviewed briefs, and wrote analytical memoranda for several general litigation matters. Analyzed agreements for transactional and corporate matters. Participated in in-house client rotation with Barings LLC.

**Institute for Women's Policy Research**, Washington, DC

September 2020 – June 2021

*Mariam K. Chamberlain Research Fellow*

Conducted research projects on inequality, impact of COVID-19, violence against women, and diversity in STEM. Authored reports and blogs, developed literature reviews, and fact-checked publications.

**National Collegiate Athletic Association (NCAA)**, Indianapolis, Indiana

May 2019 – June 2021

*Division I Student-Athlete Advisory Committee & Committee on Women's Athletics Member*

Represented the Patriot League's 5,200 student-athletes. Provided feedback on NCAA legislation; recommended and passed National Election Day Off legislation; and advised the NCAA on gender- and inclusion- related issues.

**Bucknell-Geisinger Research Initiative**, Lewisburg, Pennsylvania

May 2019 – September 2020

*Senior Research Assistant*

Studied barriers to social mobility and health by linking qualitative interviews with electronic health records. Planned and executed over 35 in-depth interviews. Generated narrative analyses of interviews and coded qualitative data.

### PUBLICATIONS

*The Status of Women in North Carolina: Poverty and Opportunity*, Institute for Women's Policy Research. (Elyse Shaw and Halie Mariano – 2022)

*Tackling the Gender and Racial Patenting Gap to Drive Innovation: Lessons from Women's Experiences*, Institute for Women's Policy Research. (Elyse Shaw and Halie Mariano – 2021)

*Narrow the Gender Pay Gap, Reduce Poverty for Families: The Economic Impact of Equal Pay by State*, Institute for Women's Policy Research. (Elyse Shaw and Halie Mariano – 2021)

### INTERESTS

Born in South Korea. Lived in New Zealand for five years. Enjoys cooking, running, and the New York Yankees.



THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL  
SCHOOL OF LAW

☎ 919-962-5106 | 📠 919-962-1170

Van Hecke-Wettach Hall | Campus Box 3380  
160 Ridge Road | Chapel Hill, NC 27599-3380  
law.unc.edu

### Unofficial Transcript

**Note to Employers from the Career Development Office:** Grades at the UNC School of Law are awarded in the form of letters (A, A-, B+, B-, C, etc.). Each letter grade is associated with a number (A = 4.0, A- = 3.7, B+ = 3.3, B = 3.0, etc.) for purposes of calculating a cumulative GPA. An A+ may be awarded in exceptional situations. For more information on the grading system, including the current class rank cutoffs, please contact the Career Development Office at (919) 962-8102 or visit our website at <https://law.unc.edu/careers/for-employers/grading-policy-faq/>

Halie Mariano

GPA: 3.675

Class	Description	Units	Term	Grade
LAW 199-01	Transition to the Profession I	0.50	Fall 2021	PS
LAW 201	Civil Procedure	4.00	Fall 2021	A
LAW 205	Criminal Law	4.00	Fall 2021	A
LAW 209	Torts	4.00	Fall 2021	A
LAW 295	Research, Reasoning, Writing & Advocacy I	3.00	Fall 2021	B+
LAW 199-02	Transition to the Profession II	0.50	Spring 2022	PS
LAW 204	Contracts	4.00	Spring 2022	A-
LAW 207	Property	4.00	Spring 2022	A
LAW 234A	Constitutional Law	4.00	Spring 2022	A-
LAW 296	Research, Reasoning, Writing & Advocacy II	3.00	Spring 2022	A
LAW 220	Administrative Law	3.00	Fall 2022	B+
LAW 242T	Evidence	3.00	Fall 2022	B+
LAW 467	Negotiation	3.00	Fall 2022	B+
LAW 528	Race, Law & National Security	3.00	Fall 2022	A
LAW 206	Criminal Procedure Investigations	3.00	Spring 2023	B+
LAW 266	Professional Responsibility	2.00	Spring 2023	B+
LAW 275	Secured Transactions	3.00	Spring 2023	A-
LAW 301	Legislative Advocacy	2.00	Spring 2023	A-
LAW 550	Race & the Law	3.00	Spring 2023	B+
LAW 564	Dispute Resolution Competition Lab	1.00	Spring 2023	PS

\*\*Federal Jurisdictions to be taken Fall 2023

= GPA	3.675
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June 09, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am delighted to recommend Halie Mariano for a clerkship in your chambers. Halie is a well-rounded student and an excellent legal researcher and writer. She is also a true leader who has earned the respect of the entire Carolina Law community, including faculty, staff, and students of all class years. Halie's work ethic is exemplary, and her maturity, ability to connect with peers and supervisors, and positive attitude, even in the most challenging times, make her a pleasure to work with. She will be an outstanding law clerk.

I have known Halie since I taught her in Research, Reasoning, Writing, and Advocacy (RRWA) during her first semester of law school. Taught in small sections, RRWA provides foundational, practice-oriented instruction which helps students develop the skills necessary to communicate professionally as attorneys. Working both individually and in teams, students learn the fundamentals of legal research, reasoning, and writing, primarily by simulating important aspects of law-office work.

I'm lucky to have worked closely and collaboratively with Halie when she was my student. That semester, I read multiple drafts of many pieces of her writing and met with her for six required individual conferences. But even outside those conferences, Halie's dedication to improving her written legal analysis led her to seek additional constructive feedback on her work. She regularly attended office hours and "bonus" conferences, even meeting with me multiple times after the end of RRWA I to continue developing her skills. Since her 1L year, Halie has remained in close contact with me and we've met to discuss course selection and extracurricular activities, employment opportunities, and clerkships.

Halie was already an impressive legal researcher in her 1L year, but her substantial research experience since then—as a summer associate at top-notch law firms, an author and editor on Law Review, and in courses with rigorous writing components—has honed and broadened her skills. As a former law clerk myself, I would not hesitate to seek Halie out for particularly complex or thorny legal issues, trusting that her research would both cover the field of potentially relevant solutions, casting as wide a net as appropriate, and also dive deep where relevant.

Halie's legal writing is top-notch. Her legal analyses are well organized, cogent, and thorough. She is especially good at extracting sophisticated rules from legal authorities and making good judgments about which cases to focus on for meaningful analogies and distinctions. Halie's application of law to fact is thorough, deliberate, and persuasive. She structures each piece of written work product with care, making sure that she sets up a helpful legal framework, meets her audience's expectations, and guides her reader with clear, easy-to-follow prose. And the variety of writing experiences that Halie has had since the fall of her 1L year—both academic and practical—have given her the opportunity to gain confidence and efficiency when writing complex, long-form documents.

Halie is a leader with an impeccable work ethic. Whether as the captain of a Division I softball team, a conference delegate to the NCAA National Student-Athlete Advisory Committee, or the sole Division I athlete on the NCAA's Committee on Women's Athletics, Halie's peers consistently recognize her vision and capacity to lead. Within weeks of arriving at the law school, Halie was selected from among a large group of applicants to be the 1L Class Representative on the Pro Bono Board, one of Carolina's most active and respected student organizations. And in my class, when students worked in small groups—which was often—Halie's leadership and careful preparation consistently kept her group engaged and on task.

Halie's oral communication skills are unparalleled among her peers. I didn't have the pleasure of teaching Halie during her spring legal writing class, when our curriculum shifts from objective writing to written and oral advocacy. But according to the professor who did teach her, Halie delivered the single best appellate oral argument he heard that spring across both of his sections of RRWA II. (I vividly remember him stopping me in the hall just to tell me how great Halie was.) As a result, he selected her to receive a Gressman-Pollitt award for exceptional oral advocacy.

Halie's oral communication is just as effective in less formal settings. She thinks on her feet and expresses her positions not only with confidence and clarity, but also with openness and humility. She asks for clarification when necessary and, when she disagrees with someone, appropriately and gently pushes back in ways that ultimately enrich the discussion. Halie was a consistent and enthusiastic participant in my class, and her engagement with the material always served her classmates well. Importantly, she is also an active and compassionate listener, making any conversation with her a pleasure. These skills are apparent after a single conversation with Halie: during both of her job-search cycles, employers were bending over backwards to recruit her after their interviews, leaving her with the enviable problem of having to choose among many competing offers.

Interpersonally, Halie is kind, warm, and easy to talk to. She is fundamentally devoted to diversity and public service, and cares fiercely about her community. These values inform Halie's extracurricular involvement in college and law school, her vision for her career as an attorney, and the way she moves through the world. She is attentive, collaborative, and easygoing. She would be a perfect fit for a close-knit work environment.

Rachel Gurvich - [gurvich@email.unc.edu](mailto:gurvich@email.unc.edu)

In short, I believe that Halie would be an invaluable addition to your chambers. I would be happy to answer any questions you may have about Halie. Please feel free to contact me directly at (617) 640-9764 or [gurvich@email.unc.edu](mailto:gurvich@email.unc.edu).

Best regards,

Rachel Gurvich

Rachel Gurvich - [gurvich@email.unc.edu](mailto:gurvich@email.unc.edu)

June 09, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing in enthusiastic support of Halie Mariano's application for a clerkship in your chambers. I have had the pleasure of teaching Halie twice: in Research, Reasoning, Writing and Advocacy in the second semester of her 1L year, and in Evidence during the first semester of her 2L year. In the first course, I had many opportunities to work with her individually; in the second, I got to teach her in a traditional, large law school class. Based on both of those very different contexts, I am happy to recommend Halie unreservedly.

From a purely academic standpoint, Halie's resumé speaks for itself: she has a very high GPA and is a member of the Law Review, excelling in her classes while at the same time performing over 150 hours of pro bono; there are, simply put, very few students in the Law School who put together that trifecta. And from teaching her in my legal writing course, I can tell you that she is an absolute star. Throughout the semester, she turned in nothing but top-notch work on every assignment, graded or not. To give you a sense, of the two sections of that class that I taught semester (31 students in all), she wrote the second-best final memo and was the best oral advocate. (In fact, her oral argument was one of the five best that I've seen in my decade teaching first-year advocacy at UNC.) I have zero doubt that she can handle any work that you give her and, more than that, excel at it.

But beyond being an outstanding writer and student, Halie is just the type of person that a professor wants to have in class. I've mentioned my legal writing class, but she was just as good in my Evidence class. It is hard to stand out in a class of 65, but Halie did. She participated regularly but without ever overdoing it and dominating the conversation. More than that, I always knew that she was impeccably prepared; if the class was hesitant to answer, I could turn to her and she would volunteer and get us on-track.

Finally, while Halie would make a great clerk solely on her intellectual ability, preparation, and hard work, she would also be a great addition to any judge's chambers. My classes—and particularly my 1L class—offer multiple opportunities for collaboration throughout the semester. Halie was great in that setting, as she could bring innovative ideas to the table on the front end and then turn those ideas into an effective, polished final product. She also just has a wonderful personality: she's friendly, engaging, and a pleasure to talk with. She is, in short, exactly the sort of person who anyone would want in their office.

For all of these reasons and many more, I am delighted to give my strong endorsement in support of Halie Mariano's application for a clerkship in your chambers. Please do not hesitate to contact me if you have any further questions.

With every good wish, I am

Sincerely,

Luke H. Everett  
Clinical Professor  
UNC School of Law  
Email: lmeveret@email.unc.edu  
Cell phone: 919-621-1317

Luke Everett - lmeveret@email.unc.edu

June 09, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

It is my great pleasure to offer you this recommendation of Halie Mariano for a clerkship in your chambers. It's an unqualified, enthusiastic recommendation. Halie is a rising star!

A word about me, so you'll know where this is coming from: I've been teaching since 1994, first at the University of Wyoming College of Law, and, since 1998, at UNC School of Law. Before going into academia, I was a federal district court law clerk (District of New Jersey) and an Assistant US Attorney (same district).

I began to get to know Halie a bit less than a year ago, when she was in my Constitutional Law class as a first-year student. It was a large-ish class – around 60 students – but Halie quickly stood out as one of the very best in the class. This was confirmed, of course, in her excellent performance on the final exam, where she earned an A- (and was just a point short of an A). But her strong performance came as no surprise; Halie was a reliable—and, more importantly, smart—contributor to our class discussions. These are difficult days for the study of Constitutional Law in law schools. Sensibilities are raw, politics are at the surface, and respect for the Supreme Court is the lowest I've seen in my three decades in this business. Halie came at the course with fresh, wide-open eyes, and an inquiring rather than pontificating approach. Unlike most students, who have a hard time seeing beyond the specific opinion assigned for that day's class, Halie constantly evaluated what she was reading against all of the cases she'd read until that point, and worked hard to find points not just of discontinuity but also of continuity between the Justices' various approaches. She certainly came to the material with the viewpoint of a liberal, but unlike most of her fellow students, she allowed the material to challenge her to rethink her premises. She resisted the urge to just say, "oh, this is all just politics," as so many do these days, and instead tried to understand constitutional law as a body of actual law, however racked by internal tensions it might be. I think the word I'd use for Halie's approach is **mature**.

During the fall semester, Halie was one of 15 students in a small legal history seminar I've just started offering. The topic of the seminar is the legal history of the removal and imprisonment of Japanese Americans in World War II. Here again, Halie was an all-star. In her seriousness of engagement with the material she was one of the top two students. She wrote six short "reaction papers" to the assigned reading across the semester and all were excellent—well-written, well-organized, and insightful. Her final paper was outstanding. She chose a knotty topic for herself, gauging the legal validity of the Court's claim in the recent "travel ban" case, *Trump v. Hawaii*, that it was overruling the notorious-but-never-formally-overruled case of *Korematsu v. United States*. (It's not self-evident that the majority opinion should be believed on this point, as the overruling came in obvious *dicta* and the majority opinion arguably makes some of the same mistakes as the Court made in *Korematsu*.) Halie's analysis was astute, and again, as with her other papers, her writing was excellent and well-structured.

In candor, I have to say that even though Halie's academic performance has been excellent, her smarts have not been the thing that has most distinguished her in my mind. It's her character. Halie was born in South Korea and adopted as a baby by a white American family. From the first time we met in January of 2022, she was very open about both the miracle and the challenges of her adoption and its legacy. She is immensely appreciative of her parents for bringing her into their lives and raising her lovingly and with abundant opportunities all around her. Yet she has also had to negotiate the complexities of being an Asian American growing up in a white family and a mostly white community. These experiences have made her an astute cultural observer. They have also motivated her to achieve – to take advantage of the many opportunities that she knows she would not have had growing up in her birth family. Her athletic prowess as an undergrad at Bucknell is indicative of her will to compete and excel at what she does. She wants to be, as she puts it, "the best, and if not the best, then the very best she can be." Halie is, quite simply, going places. She has the makings of a star lawyer of her generation.

I mention Halie's athletic background because I think it reveals something about how she will be in a workplace. She understands intuitively that success is a team, not an individual, venture. She shines in small-group work, where she both speaks her mind and ensures a good group dynamic. I have absolute confidence that Halie will be a delight in your chambers, shouldering her own workload while also contributing to a positive, friendly, caring office dynamic.

I simply cannot wait to see where Halie Mariano ends up, and I very much hope her career might start with a clerkship in your chambers. She's a gem.

I'll be happy to field a call if you'd like to talk further. My cellphone number is 919-931-5950.

Best regards,

Eric Muller  
Dan K. Moore Distinguished Professor of Law in Jurisprudence and Ethics

Eric Muller - emuller@email.unc.edu - 919.962.7067

**HALIE MARIANO**

623 Coolidge Street, Chapel Hill, NC 27516 | (585) 698-7419 | hmariano@unc.edu

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**Writing Sample**

This writing sample is an appellate brief I submitted in my 1L legal research and writing course. I wrote and revised this brief independently and received limited professor feedback. The brief is based on a closed universe of cases, some of which had been edited for this assignment.



**CASE NO. 2:21-cr-02493**

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**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

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**UNITED STATES OF AMERICA,**

**Plaintiff-Appellee**

**v.**

**TRAVIS ANTHONY HOPKINS,**

**Defendant-Appellant**

---

**ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT, EASTERN DISTRICT  
OF TENNESSEE, AT GREENVILLE**

---

**BRIEF FOR THE APPELLANT**

Halie Mariano  
Attorney for the Appellant  
160 Ridge Road  
Chapel Hill, North Carolina 27514  
(585) 698-7419  
hmariano@unc.edu

### STATEMENT OF THE ISSUE

Whether the district court erred in applying the Armed Career Criminal Act's ("ACCA") sentence enhancement, 18 U.S.C. § 924(e)(1), to Travis Anthony Hopkins after finding that the crimes he committed within a single hour the night of April 2, 2009, were three separate occasions.

### STATEMENT OF THE CASE

In May 2021, Travis Anthony Hopkins pled guilty to one count of possession of a firearm by a felon under 18 U.S.C. § 922(g)(1). R. 2. He received an enhanced sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(e)(1). At sentencing, the district court found that Hopkins' three felony convictions, each resulting from crimes he committed the night of April 2, 2009, were three separate occasions sufficient to trigger the ACCA enhancement. This timely appeal followed.

On April 2, Hopkins climbed a fence to enter the Belmont Estates Apartments. R. 23. Earlier in the day he watched four friends, seemingly roommates, come out of an apartment with luggage and camping supplies. R. 28-29. Before leaving, one of the roommates yelled up to the others to make sure the door was locked and that there was enough food for the cat for three days. R. 28. Hopkins watched the roommates drive away in a Porsche Cayenne, with the impression that the students might have money or food for taking. Hopkins had struggled to maintain a consistent income since losing his job in 2007. R. 29.

Shortly after midnight, Hopkins jumped the fence into the apartment complex and used a crowbar to access Apartment 224—the same apartment he watched the four roommates depart from earlier that day. R. 23. Feeling stressed about the prospect of his family's future given his financial instability, over the next twenty-five minutes, Hopkins entered two of the bedrooms attached to the living room and kitchen common area, and in between spent time lounging in the apartment and eating food from the fridge. During this time, Hopkins removed a small handheld

personal computer, keys, and a wallet (with sixty dollars inside) from one bedroom, and some jewelry from the other. R. 25.

What was unclear to Hopkins that night was the “unique business model” Belmont Estates used. At Belmont Estates, four or five “apartments” share a common area with a kitchen and living room. R. 24. Doors off the common area lead to separate bedrooms and bathrooms for each of the roommates—each of which has their own locks with keys. R. 24. Hopkins did not know apartments like these existed and assumed the four roommates shared one individual apartment with separate bedrooms. R. 29. He recalls thinking, “when I went in there, I was just thinking I was in a regular apartment.” R. 29. Even the trial judge noted that “it sounds like he broke into Apartment 224 and then robbed two . . . rooms in the apartment. Like he robbed two roommates.” R. 30.

With Belmont Estates’ business model, each resident has a separate lease, and plaques within Apartment 224 identified the different “apartments” within the larger residence. R. 24. When Hopkins entered the individual rooms, it was dark and he could not see the plaques, which were small and located above the frame of each bedroom door. R. 25. While Hopkins noticed it was odd that the separate rooms in the apartment had different locks and keys, the layout of the apartment closely resembled an average four-bedroom apartment. R. 30.

After moseying around the apartment, Hopkins saw a flashlight outside the main apartment door and panicked. R. 30. He jumped through an apartment window as one police officer forced through the apartment door. R. 30-31. Upon landing safely out of the two-story window, another police officer, Officer Thomas, ordered Hopkins to freeze. R. 31. Fearing the consequences, Hopkins turned and ran toward the other side of the apartment complex. R. 32. Officer Thomas pursued on foot. R. 32.

Hopkins took respite in a culvert while the officers continued searching for him. R. 32. In their search, Officer Thomas walked down the hill near the culvert, and Hopkins popped out, stunning Thomas with a crowbar before running away. R. 32-33. Hopkins recalled feeling “trapped” and panicked” with his heart “going about five miles a minute,” never intending to hurt anyone. R. 33. As a result of these events, Hopkins pled guilty to two counts of aggravated burglary and one count of aggravated assault, and then served forty-two months in prison. R. 11.

In early 2021, Hopkins was leading a normal and problem-free life until he was detained by the Federal Bureau of Investigations in an investigation related to Walker Lanegan. Hopkins was under suspicion for soliciting Lanegan to assault one of Hopkins’ co-workers. R. 11. During this detention, FBI agents discovered that Hopkins possessed a firearm purchased in 2012. R. 11. While the United States indicted Hopkins on solicitation charges, Hopkins vigorously maintains his innocence with respect to that crime, and the United States Attorney’s office dropped that count of the indictment when Hopkins accepted the plea agreement. R. 12.

Since Hopkins’ release from prison in 2012, he has held steady employment and leads a stable life, making approximately \$30,000 per year and living alone in his Nashville apartment. R. 14. Additionally, while Hopkins’ ex-wife has primary custody over their two daughters, Hopkins sees his children regularly, at least twice per month, and for extended periods each summer. R. 14. Hopkins also maintains a healthy relationship with his ex-wife, who is happy to give him time with their daughters. R. 14. Hopkins has no history of substance use issues and drinks socially but does not use drugs. R. 15. His mental and emotional health remains stable, apart from the regular stress associated with his legal challenges. R. 14-15.

### SUMMARY OF THE ARGUMENT

Hopkins' criminal acts on the night of April 2, 2009, do not constitute three separate occasions as required by the Armed Career Criminal Act ("ACCA") to apply the fifteen-year mandatory sentence enhancement. An "occasion" is defined by "separate and distinct transactions" that show "a completion or definable endpoint" between crimes—neither of which is present in Hopkins' case.

Congress intended for the ACCA's sentence enhancement to target and punish recidivism, where three-time offenders could no longer get away with recurring felonies. But the Act's application has been extended to categorize continuous criminal episodes as separate occasions, resulting in an over-application of the sentence enhancement.

In this case, Hopkins' offenses on April 2, should not be considered three distinct occasions for several reasons. First, the two burglaries within Apartment 224 should be considered a single criminal episode. The offenses occurred simultaneously and continuously, making them essentially indistinguishable from one another, despite Belmont Estates' unique business model. Second, the subsequent assault of Officer Thomas is analogous to a former Sixth Circuit case, *United States v. Graves*, which illustrates that events occurring at the same location, within moments of one another, should be considered a single, continuous criminal episode.

The facts of Hopkins' crimes on April 2, 2009, do not demand the application of the ACCA's sentence enhancement, which is meant to dissuade career criminals from persistent reoffending. Rather, Hopkins' actions that night constitute only one or two separate occasions, and thus, do not meet the requirements of the sentence enhancement provision.

## ARGUMENT

This court reviews questions of law *de novo*, while factual determinations are reviewed for clear error. *United States v. Graves*, 60 F.3d 1183, 1185 (6th Cir. 2006). Whether prior criminal conduct was a single occasion or multiple separate occasions under the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e)(1), is a legal question of statutory interpretation, so the District Court’s decision will be reviewed *de novo*. *United States v. Murphy*, 107 F. 3d 1199, 1208 (6th Cir. 1997).

**The District Court erred in applying the Armed Career Criminal Act’s sentence enhancement, as Hopkins’ three crimes on April 2, 2009, did not occur on three separate “occasions.”**

In cases where an individual with three previous convictions for violent felonies or serious drug offenses, committed on occasions different from one another, possesses a firearm, the ACCA provides a mandatory fifteen-year minimum prison sentence. 18 U.S.C. § 924(e)(1). Whether prior offenses may be treated as predicate crimes occurring on separate occasions under the ACCA does not depend on the number of convictions or the number of victims. *United States v. Thomas*, 211 F.3d 316, 319 (6th Cir. 2000). Rather, the absence of “a completion or definable endpoint” of the first crime before the second began supports a claim for the sentence enhancement’s inapplicability. *Id.* at 321.

Defined broadly, an “occasion” is distinct from a criminal “episode.” *See Thomas*, 211 F.3d at 319; *United States v. Brady*, 988 F.2d 664, 668 (6th Cir. 1993). An episode is an “incident that is part of a series” but forms a “separate unit” within the whole. *Brady*, 988 F.2d at 668. Although related to the entire course of events, an episode is a “punctuated occurrence” with a “limited duration,” making an episode only a part of a larger criminal “occasion.” *Thomas*, 211

F.3d at 319. While proximity alone does not make two crimes a single episode, crimes that “occur simultaneously” count as only *one* predicate offense. *Brady*, 988 F.2d at 668.

This Court uses three indicia to show whether offenses are separate occasions from one another: (1) Whether it is possible to discern the point at which the first offense is completed, and the subsequent point at which the second offense begins; (2) whether it would have been possible for the offender to cease his criminal conduct after the first offense; and (3) whether the offenses were committed in different residences or business locations. *United States v. Hill*, 440 F.3d 292, 297 (6th Cir. 2006). However, these indicia have been applied inconsistently, and do not align with the legislative intent behind the ACCA’s sentence enhancement provision. *See Brady*, 988 F.2d at 668; *Thomas*, 211 F.3d at 319. Thus, the analysis of Mr. Hopkins’ crimes should not be judged solely on these flawed indicia.

Congress intended for the ACCA to punish recidivism and career criminals who committed three separate felonies on different occasions. *United States v. Graves*, 60 F.3d 1183, 1187 (6th Cir. 1995). Because Congress intended to punish recidivists, the predicate conduct must amount to “separate and distinct” transactions in some “definable” sense. *United States v. Murphy*, 107 F.3d 1199, 1210 (6th Cir. 1997). To consider criminal conduct as a “definable” event, there must be a reasoned basis for doing so. *Id.*

The ACCA’s sentence enhancement aims to convict “three-time losers”—career criminals consistently engaging in dangerous and violent crime. *Brady*, 988 F.2d at 666. This court emphasizes that deciding to apply this statute should not be a “reach,” but instead, the statute should be applied when “the facts *demand* its application.” *Graves*, 60 F.3d at 1187 (emphasis added). If the facts warrant the application of the ACCA, this court places the burden on the government to show that the defendant had “three previous convictions . . . for a violent felony or

a serious drug offense . . . committed on occasions different from one another.” *United States v. Barbour*, 750 F.3d 535, 537; 18 U.S.C. § 924(e)(1).

**A. The burglaries were not separate occasions as defined by the ACCA.**

One sign of a distinct criminal occasion is if the defendant asserted substantial “dominion and control” over both victims at the same time. *Thomas*, 211 F.3d at 321. In *United States v. Thomas*, defendant Thomas’ two convictions for sexual assault did not constitute two separate offenses under the ACCA. *Id.* at 317. When two women asked Thomas and his friend for directions, the men agreed to show them the way in exchange for a ride. *Id.* at 318. Thomas and his friend entered the back seat of the car and proceeded to sexually assault the women. *Id.* at 319. Because the acts could not have been committed on occasions different from one another, and arose out of a single, continuous criminal episode, the ACCA’s sentence enhancement was inapplicable. *Id.*

Here, as in *Thomas*, there was not a “completion or definable endpoint” between the burglaries. Hopkins entered the apartment thinking it was a singular apartment with four bedrooms, not the unique business model Belmont Estates had implemented. Hopkins entered two of the bedrooms attached to the living room and kitchen and removed a series of inexpensive items thinking he was in a singular apartment. Additionally, given the darkness of the apartment, Hopkins could not see the individual plaques above each bedroom door. Rather, the burglaries occurred almost “simultaneously” as Hopkins navigated through the apartment and, similar to *Thomas*, should be deemed a “single, continuous episode.”

Even the trial judge noted that Hopkins seemed to have “robbed two roommates,” not two separate apartments. Hopkins had previously watched the four roommates engage as friends and leave on a road trip together, leaving no reason to think there was more than one “apartment”



inside the larger apartment. As in *Thomas*, the acts could not have been committed on occasions different from one another based on the proximity and timeline of the offenses. The inability to decipher between the end of one burglary and the other represents the impossibility of defining these acts as two “separate and distinct” transactions where Hopkins had “dominion and control” over the burglary victims. The acts occurred at the same location “within moments,” likely constituting a criminal “episode,” but not a separate occasion. As a result, the facts do not “demand [the ACCA’s] application.” Applying the sentence enhancement only undermines the original intent of the ACCA—to punish recidivism.

**B. The assault was not a separate occasion as defined by the ACCA.**

When applying the ACCA sentence enhancement, a court cannot count two predicate felony convictions related to only a single criminal act as separate occasions. *United States v. Taylor*, 882 F.2d 1018, 1029 (6th Cir. 1989). This reasoning applies to cases in which two crimes occurred at one location. *See Graves*, 60 F.3d at 1186-1187. In *Graves*, the defendant’s burglary of a home and the subsequent assault on a police officer in the woods outside the home were deemed a single episode of criminal conduct. *Id.* The defendant, *Graves*, had not left the location of the burglary when he was confronted by the officers. *Id.* at 1187. This court reasoned that since the assault on the police officer occurred at the “same location within moments” of the burglary, the assault was part of a singular criminal episode. *Id.* at 1186-1187.

Here, Hopkins’ assault on Officer Taylor was a continuation of the previous burglaries. As in *Graves*, when the officers approached Hopkins, he had not left the location of the burglary and was still on Belmont Estates property. While *Graves* assaulted the officer in the woods outside the home of the burglary, Hopkins assaulted Officer Thomas from a culvert only a short walk from Apartment 224. Since the assault occurred at the “same location within moments” after the

burglaries, the assault should not be considered a separate occasion under the ACCA, but a “single, continuous criminal episode.”

Deeming the assault a separate occasion contradicts the legislative intent behind the ACCA’s sentence enhancement. Hopkins should not be cona “three-time loser” based on the simultaneous burglaries and the subsequent assault. Instead, the series of three convictions should be measured based on the single location and limited duration of the crimes, neither of which was “separate and distinct” from one another. Because of this, Hopkins is not a dangerous career criminal, and the facts, once again, do not demand the ACCA’s application. Intended to punish recidivism, the ACCA’s sentence enhancement should not apply to Hopkins, whose previous convictions occurred on one day, within a limited time, and at a singular location.

### **CONCLUSION**

In holding that Hopkins’ 2009 convictions constitute three separate offenses, the district court erred in applying the Armed Career Criminal Act’s (ACCA) sentence enhancement. For the foregoing reasons, the appellant further argues that the court’s sentencing decision should be reversed due to the court’s erroneous classification of Hopkins as a violent career criminal. The case should be remanded for resentencing without the application of the ACCA’s sentence enhancement.

Respectfully submitted,

*S/ Halie Mariano*  
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## Applicant Details

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**State/Territory**  
**District of Columbia**  
**Zip**  
**20037**

Contact Phone Number **7738077796**

## Applicant Education

BA/BS From **University of Illinois-Urbana-Champaign**  
 Date of BA/BS **May 2021**  
 JD/LLB From **The George Washington University Law School**  
<https://www.law.gwu.edu/>  
 Date of JD/LLB **May 19, 2024**  
 Class Rank **I am not ranked**  
 Law Review/Journal **Yes**  
 Journal(s) **George Washington International Law Review**  
 Moot Court Experience **Yes**  
 Moot Court Name(s) **Van Vleck Constitutional Law Moot Court Competition**  
**First Year Moot Court Competition**

## Bar Admission

## Prior Judicial Experience

Judicial Internships/ Externships	Yes
Post-graduate Judicial Law Clerk	No

### **Specialized Work Experience**

### **Professional Organization**

Organizations	Just The Beginning Foundation
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**This applicant has certified that all data entered in this profile and any application documents are true and correct.**

**Cristina Marila**

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June 25, 2023

The Honorable Jamar K. Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510

Dear Judge Walker:

I am a rising third-year student at the George Washington University Law School. I write to you to apply for a clerkship in your chambers for the 2024–2025 term. My judicial internship with the Honorable Andrea R. Wood of the U.S. District Court for the Northern District of Illinois through the Just the Beginning program spurred a passion for litigation and legal writing that I have continued to foster throughout law school and hope to bring to your chambers.

I believe I would make a beneficial addition to your chambers because I excel in fast-paced environments that utilize my strong research and writing skills. My ability to handle multiple responsibilities and unwavering work ethic enables me to learn quickly and be efficient. As a law clerk for the Federal Tort Claims Act (FTCA) Section of the Department of Justice, I conducted research on the scope of the FTCA's protections for government employees and completed thorough recommendation memoranda for various administrative claims that resulted in approved settlements by the Section Director. As a judicial intern, I became a concise and detailed writer to ensure Judge Wood's opinions were exhaustive of the legal issues presented and fully understood by the filing parties, particularly pro se litigants. While working with Judge Wood and her extensive docket, I was able to keep up with the fast-paced environment of chambers and produce quality work. During both my judicial internship and FTCA Section externship, I completed the most assignments out of each cohort by regularly communicating with my superiors and effectively incorporating feedback into my assignments.

In addition to my technical skills, I have also developed strong communication and interpersonal skills. I engaged in complex legal discourse with Judge Wood and her judicial staff over my drafted orders and hearings I observed. I can expertly navigate legal matters with not only attorneys, but also lay people. During my time with AmeriCorps and the Richard H. Trais Law Office, I helped clients attain legal recourse by guiding them through legal processes recommended by the practicing attorney.

Enclosed please find a copy of my resume, transcript, and writing sample. In support of my application, I am submitting three letters of recommendation that can attest to the attributes that make me a well-qualified candidate for a clerkship in your chambers. Thank you for your time and consideration.

Respectfully,

  
Cristina Marila

Enclosures

## Cristina Marila

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### EDUCATION

#### **The George Washington University Law School**

Washington, DC

J.D., GPA: 3.272

May 2024

**Honors:** The George Washington International Law Review (Executive Notes Editor); Fundamentals of Lawyering Legal Research and Writing Program (Teaching Assistant)

**Activities:** Immigration Law Association (Events Coordinator); Inns of Court Program (Student Advisor)

#### **University of Illinois at Urbana-Champaign**

Champaign, IL

B.S., *cum laude*, in Political Science and Psychology, GPA: 3.90

May 2021

**Honors:** Dean's List (Honoree) (Fall 2017 – Spring 2019, Fall 2020 – Spring 2021); Wentcher Scholarship (Recipient); Chez Scholars Program Scholarship (Recipient)

**Activities:** Kappa Alpha Pi Pre-Law Fraternity (Founding Member, President); First Year Campus Acquaintance Rape Education Program (Facilitator); The Immigration Project (Volunteer)

### EXPERIENCE

#### **Prof. Cori Alonso-Yoder, The George Washington University Law School**

Washington, DC

*Research Assistant*

Upcoming June 2023 – December 2023

#### **U.S. Department of Justice, Civil Division, Office of Foreign Litigation**

Washington, DC

*Law Clerk*

June 2023 – August 2023

- Draft memoranda on complex international legal topics concerning the actions of U.S. citizens abroad, such as the applicability of combatant immunity for state actions during the Ukraine-Russia war.
- Review incoming Letters of Request for judicial assistance from foreign courts for treaty compliance.

#### **U.S. Department of Justice, Civil Division, Federal Tort Claims Act Section**

Washington, DC

*Law Clerk*

August 2022 – December 2022

- Wrote recommendation memoranda on administrative claims for the Section Director's review.
- Recommended settlement of an automobile accident claim involving a federal driver and claimant's search for an escaped llama, and denial of four administrative claims seeking \$160,000 for the failure of federal employees to investigate a pro se claimant's claims.
- Researched the limited applicability of the "Treasury Exception" of the FTCA where damages are sought based on its fiscal operations.

#### **Honorable Andrea R. Wood, U.S. District Court for the Northern District of Illinois**

Chicago, IL

*Judicial Intern, Just the Beginning Program*

May 2022 – July 2022

- Drafted orders to dismiss for Section 1983 violations and Americans with Disabilities Act claims.
- Discussed claims with Judge Wood and judicial staff and collaborated on determining appropriate findings for drafted orders.
- Analyzed what qualifies as a concrete injury for standing purposes when plaintiff suffers a risk of harm in the U.S. Court of Appeals for the Seventh Circuit.

#### **Richard H. Trais Law Office**

Chicago, IL

*Intern*

Summers of June 2017 – August 2021

- Researched country conditions and legal statutes to draft compelling asylum petitions for clients threatened by humanitarian issues abroad such as female genital mutilation and same-sex discrimination.
- Led clients through their filing requirements and case statuses for visa and naturalization applications in English, Romanian, and French.

#### **Illinois JusticeCorps, Champaign County Courthouse**

Champaign, IL

*AmeriCorps Intern*

August 2018 – May 2019

- Guided an average of 100 pro se court patrons per week through civil case procedures related to family law issues, expungement, and orders of protection.
- Conferred with attorneys to provide court patrons with effective legal information and local legal aid resources that give free legal representation to low-income pro se litigants.

## THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC

OFFICE OF THE REGISTRAR

Gwid : G41476532  
Date of Birth: 26-AUG

Date Issued: 07-MAR-2023

Record of: Cristina A Marila

Page: 1

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REFNUM:98285682

Current College(s): Law School  
Current Major(s): Law

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS
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## GEORGE WASHINGTON UNIVERSITY CREDIT:

## Fall 2021

Law School  
Law

LAW 6202	Contracts Chatman	4.00	B	
LAW 6206	Torts Schoenbaum	4.00	B	
LAW 6212	Civil Procedure Smith	4.00	B	
LAW 6216	Fundamentals Of Lawyering I Khetan	3.00	B	
Ehrs	15.00 GPA-Hrs	15.00	GPA	3.000
CUM	15.00 GPA-Hrs	15.00	GPA	3.000

## Spring 2022

Law School  
Law

LAW 6208	Property Nunziato	4.00	B	
LAW 6209	Legislation And Regulation Schaffner	3.00	B	
LAW 6210	Criminal Law Cottrol	3.00	B	
LAW 6214	Constitutional Law I Morrison	3.00	B	
LAW 6217	Fundamentals Of Lawyering II Khetan	3.00	A-	
Ehrs	16.00 GPA-Hrs	16.00	GPA	3.125
CUM	31.00 GPA-Hrs	31.00	GPA	3.065

DEAN'S RECOGNITION FOR PROFESSIONAL DEVELOPMENT

\*\*\*\*\* CONTINUED ON NEXT COLUMN \*\*\*\*\*

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS
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## Fall 2022

Law School  
Law

LAW 6380	Constitutional Law II Fontana	3.00	B+	
LAW 6520	International Law Coffee	3.00	A-	
LAW 6644	Moot Court - Van Vleck	1.00	CR	
LAW 6652	Legal Drafting Grant	2.00	B+	
LAW 6668	Field Placement Mccoy	3.00	CR	
LAW 6671	Government Lawyering Williams	2.00	A-	
Ehrs	14.00 GPA-Hrs	10.00	GPA	3.500
CUM	45.00 GPA-Hrs	41.00	GPA	3.171

## Fall 2022

Law School  
Law

LAW 6657	Int'L Law Review Note	1.00	-----	
	Credits In Progress:	1.00		

## Spring 2023

LAW 6360	Criminal Procedure	4.00	-----	
LAW 6379	Criminal Law/Procedure Seminar	2.00	-----	
LAW 6400	Administrative Law	3.00	-----	
LAW 6528	International Litigation	2.00	-----	
LAW 6538	Immigration Law I	2.00	-----	
LAW 6657	Int'L Law Review Note	1.00	-----	
	Credits In Progress:	14.00		

\*\*\*\*\* TRANSCRIPT TOTALS \*\*\*\*\*

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TOTAL INSTITUTION	45.00	41.00	130.00	3.171
OVERALL	45.00	41.00	130.00	3.171

\*\*\*\*\* END OF DOCUMENT \*\*\*\*\*



*Katie Cloud*  
Katie Cloud  
Interim University Registrar

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All colleges and schools beginning Fall 2010 semester:

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2000 to 4999	Advanced undergraduate courses that can also be taken for graduate credit with permission and additional work.
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6000 to 6999	For master's, doctoral, and professional-level students; open to advanced undergraduate students with approval of the instructors and the dean or advising office.
8000 to 8999	For master's, doctoral, and professional-level students.

All colleges and schools except the Law School, the School of Medicine and Health Sciences, and the School of Public Health and Health Services before Fall 2010 semester:

001 to 100	Designed for freshman and sophomore students. Open to juniors and seniors with approval. Used by graduate students to make up undergraduate prerequisites. Not for graduate credit.
101 to 200	Designed for junior and senior students. With appropriate approval, specified courses may be taken for graduate credit by completing additional work.
201 to 300	Primarily for graduate students. Open to qualified seniors with approval of instructor and department chair. In School of Business, open only to seniors with a GPA of 3.00 or better as well as approval of department chair and dean.
301 to 400	Graduate School of Education and Human Development, School of Engineering and Applied Science, and Elliott School of International Affairs – Designed primarily for graduate students. Columbian College of Arts and Sciences – Limited to graduate students, primarily for doctoral students. School of Business – Limited to doctoral students.
700s	The 700 series is an ongoing program of curriculum innovation. The series includes courses taught by distinguished University Professors.
801	This number designates Dean's Seminar courses.

The Law School

Before June 1, 1968:

100 to 200	Required courses for first-year students.
201 to 300	Required and elective courses for Bachelor of Laws or Juris Doctor curriculum. Open to master's candidates with approval.
301 to 400	Advanced courses. Primarily for master's candidates. Open to LL.B or J.D. candidates with approval.

After June 1, 1968 through Summer 2010 semester:

201 to 299	Required courses for J.D. candidates.
300 to 499	Designed for second- and third-year J.D. candidates. Open to master's candidates only with special permission.
500 to 850	Designed for advanced law degree students. Open to J.D. candidates only with special permission.

School of Medicine and Health Sciences and

School of Public Health and Health Services before Fall 2010 semester:

001 to 200	Designed for students in undergraduate programs.
201 to 800	Designed for M.D., health sciences, public health, health services, exercise science and other graduate degree candidates in the basic sciences.

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GC	Gallaudet University	PGCC	Prince George's Community College
GU	Georgetown University	SEU	Southeastern University
GL	Georgetown Law Center	TC	Trinity Washington University
GMU	George Mason University	USU	Uniformed Services University of the Health Sciences
HU	Howard University	UDC	University of the District of Columbia
MC	Montgomery College	UMD	University of Maryland

GRADING SYSTEMS

Undergraduate Grading System

A, Excellent; B, Good; C, Satisfactory; D, Low Pass; F, Fail; I, Incomplete; IPG, In Progress; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; P, Pass; NP, No Pass; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the I is replaced by the final grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 2011: The grading symbol RP indicates the class was repeated under Academic Forgiveness.

Effective Fall 2003: The grading symbol R indicates need to repeat course.

Prior to Summer 1992: When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I/ and the grade.

Effective Fall 1987: The following grading symbols were added: A-, B+, B-, C+, C-, D+, D-.

Effective Summer 1980: The grading symbols: P, Pass, and NP, No Pass, replace CR, Credit, and NC, No Credit.

Graduate Grading System

(Excludes Law and M.D. programs.) A, Excellent; B, Good; C, Minimum Pass; F, Failure; I, Incomplete; IPG, In Progress; CR, Credit; W, Authorized Withdrawal; Z, Unauthorized Withdrawal; AU, Audit. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

Effective Fall 1994: The following grading symbols were added: A-, B+, B-, C+, C- grades on the graduate level.

Law Grading System

A+, A, A-, Excellent; B+, B, B-, Good; C+, C, C-, Passing; D, Minimum Pass; F, Failure; CR, Credit; NC, No Credit; I, Incomplete. When a grade is assigned to a course that was originally assigned a grade of I, the grade is replaced with I and the grade. Through Summer 2014 the I was replaced with I and the final grade.

M.D. Program Grading System

H, Honors; HP, High Pass; P, Pass; F, Failure; IP, In Progress; I, Incomplete; CN, Conditional; W, Withdrawal; X, Exempt; CN/P, Conditional converted to Pass; CN/F, Conditional converted to Failure. Through Summer 2014 the I was replaced with I and the final grade.

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**Cristina Marila**

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**WRITING SAMPLE**

The attached writing sample is a research memorandum that I drafted during my fall 2022 externship as a law clerk for the Department of Justice in the Federal Tort Claims Act (FTCA) Section. The focus of the memorandum is on defining the scope of Section 2680(i), which is an exception to the FTCA. This work has not been edited by any of my superiors. I am submitting the attached writing sample with the permission of my supervisors at the Department of Justice, FTCA Section.

## MEMORANDUM

From: Cristina Marila  
Date: October 12, 2022  
Re: Defining Section 2680(i) of the FTCA

---

### DISCUSSION

#### **I. Defining Sovereign Immunity**

Under the doctrine of sovereign immunity, the United States is shielded from lawsuits unless Congress consents to a suit being filed against the United States. *United States v. Testan*, 424 U.S. 392, 399 (1976). The Federal Tort Claims Act (FTCA) provides parties with a vehicle to file lawsuits against the United States as if it is a private citizen. *Fed. Deposit Ins. v. Meyer*, 510 U.S. 471, 477 (1994). Specifically, the FTCA waives sovereign immunity over a variety of tort claims and permits suits against federal agencies and their employees. *Id.* However, the applicability of this waiver is not without certain limitations. FTCA claims must have six elements in order to be cognizable. 28 U.S.C. § 1346(b). They must be:

[1] against the United States, [2] for money damages, . . . [3] for injury or loss of property, or personal injury or death [4] caused by the negligent or wrongful act or omission of any employee of the Government [5] while acting within the scope of his office or employment, [6] under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

*Id.* Additionally, there are exceptions to the FTCA where sovereign immunity is not waived over certain kinds of claims and are therefore barred. 28 U.S.C. § 2680. Section 2680 lists these thirteen exceptions. *Id.* One of the most used exceptions is Section 2680(a).

#### **a. A Brief Analysis of One of the FTCA's Most Frequently Litigated Exceptions: The Discretionary Function Exception**

Section 2680(a) of the FTCA retains sovereign immunity over any claim made against a federal agency or employee for, among other acts, the "failure to exercise or perform a

discretionary function or duty.” 28 U.S.C. § 2680(a). When assessing whether the discretionary function exception applies, courts look at “the nature of the conduct, rather than the status of the actor.” *United States v. Varig Airlines*, 467 U.S. 797, 813 (1984) (noting that the discretionary function exception shields all acts of government employees, regardless of rank, that are “of the nature and conduct” that Congress intends to protect). The discretionary function exception applies to acts committed by a federal employee or agency that involve an element of judgment or choice and grounded in social, economic, or political policy. *Gaubert v. United States*, 499 U.S. 315, 322 (1991) (holding that discretionary acts made by Federal Home Loan Bank Board were acts protected under the FTCA because there were no strict regulations governing their conduct and agency acted based on public policy considerations related to federal oversight of thrift industry).

If a regulation provides an employee with discretion, the existence of the regulation is evidence of a discretionary act protected under the exception. *Id.* at 324 (“When established governmental policy, as expressed or implied by statute, regulation, or agency guidelines, allows a government agent to exercise discretion, it must be presumed that the agent's acts are grounded in policy when exercising that discretion.”). To fall under the exception, the regulation granting an employee discretion must not be mandatory and leave authority to agency members to use their own judgment instead of binding employees to a specific protocol. *Id.* at 329. However, if there is no regulation for federal employees to follow, their actions are judged by whether or not they are the kind that the discretionary function exception wants to shield. *Id.* at 322–23 (citing *Varig Airlines*, 467 U.S. at 813). The discretionary function exception in particular intends to protect “governmental actions and decisions based on considerations of public policy.” *Id.* (citing *Berkovitz v. United States*, 486 U.S. 531, 537 (1988)).

Precedent thoroughly defines the availability of the discretionary function exception to government employees and what government actions it protects. When applicable, these exceptions should offer security to government employees in an unambiguous fashion that ensures certain tort claims will not impair government functions. *See Dalehite v. United States*, 346 U.S. 15, 32 (1953). However, some of the Section 2680 exceptions are not as well-defined as the discretionary function exception, particularly the Treasury exception.

## II. Defining the Section 2680(i) Treasury Exception

Section 2680(i), also referred to as the Treasury exception, states that sovereign immunity is not waived over “[a]ny claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.” 28 U.S.C. § 2680(i). Only two cases detail the extent to which this exception applies. In *Forrester v. United States Gov’t*, 443 F. Supp. 115 (S.D.N.Y. 1977), a suit was filed against the Deputy Director of the Office of Domestic Gold and Silver Operations seeking money damages because they had prevented the plaintiff from establishing a foreign gold trust that would allow his clients to acquire beneficial interests. The court in *Forrester* dismissed the plaintiff’s complaint, ruling the issues as moot, but noted that the claim would have been legally insufficient on its face anyway because Sections 2680(h) and (i) of the FTCA barred these claims. *Id.* at 118. Section 2680(i) was applicable in *Forrester* because the plaintiff sought money damages from a regulation imposed by the Office of Domestic Gold and Silver Operations, which was a branch of the Treasury Department. *Id.* Another landmark case for Section 2680(i) is *In re Franklin Nat. Bank Sec. Litig.*, 445 F. Supp. 723 (E.D.N.Y. 1978). This case limited Section 2680(i)’s scope when the court ruled that “the ‘monetary system’ exception contained in [§] 2680(i) does not apply to bank examinations or regulation of banks in

general,” making the Treasury the main beneficiary of the exception’s protections. *Id.* at 734.

These cases establish Section 2680(i) as a protector of the Treasury.

The relationship between Section 2680(i) and the Treasury is well-defined, yet the full breadth of Section 2680(i)’s scope and terminology, including what constitutes “fiscal operations” and “the regulation of the monetary system,” are not defined at all. Although it is mainly used in conjunction with other exceptions, courts must define Section 2680(i) on its own; they cannot assume that this exception nor the language it uses is superfluous. *See Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979) (noting that courts must avoid interpreting portions of a statute as superfluous and must give effect to every word Congress used). Understanding the scope of these exceptions to the same level as the discretionary function exception is important because Section 2680 “marks the boundary between Congress’ willingness to impose tort liability upon the United States and its desire to protect certain governmental activities from exposure to suit by private individuals.” *Varig Airlines*, 467 U.S. at 808. The “moat of sovereign immunity” protects the United States from suit, but better defining the boundaries of the FTCA benefits the United States as a potential party to a suit and provides a “traversable bridge” for individuals looking for redress for acts of negligence caused by federal actors. *Jaffe v. United States*, 592 F.2d 712, 717 (3d Cir. 1979).

#### **a. Recent Developments in the Interpretation of the Treasury Exception**

A slew of recent cases in the United States District Court for the Southern District of Texas have more clearly defined Section 2680(i) by interpreting a different FTCA exception. When a quarantine was issued in South Texas to prevent the spread of fever ticks amongst cattle, plaintiffs filed suit against the U.S. Department of Agriculture for the harm their livestock sustained from the government-issued treatment for ticks the cattle received during their

quarantine. *See Delgadillo v. United States*, No. CV B-17-59, 2018 WL 5732080 (S.D. Tex. Sept. 5, 2018); *Ramirez v. United States*, No. CV B-17-60, 2018 WL 5732082 (S.D. Tex. Sept. 5, 2018); *Cascabel Cattle Co., LLC v. United States*, No. CV B-17-61, 2018 WL 5850575 (S.D. Tex. Sept. 5, 2018). The defendant in these suits moved to dismiss the claims under Section 2680(f) of the FTCA, also known as the quarantine exception, which states that the FTCA does not waive sovereign immunity for “[a]ny claim for damages caused by the imposition or establishment of a quarantine by the United States.” *Delgadillo*, 2018 WL 5732080, at \*8; *Ramirez*, 2018 WL 5732082, at \*1; *Cascabel Cattle Co., LLC*, 2018 WL 5850575, at \*1. The court in these cases noted that both the quarantine exception and the Treasury exception use “caused by” language versus “arising out of” language seen in the other FTCA exceptions. *Delgadillo*, 2018 WL 5732080, at \*11; *Cascabel Cattle Co., LLC*, 2018 WL 5850575, at \*13. Based on previous interpretations of the language and statutory intent, the United States District Court for the Southern District of Texas determined that the phrase “caused by” implied that proximate causation was necessary for the exceptions to apply. *Delgadillo*, 2018 WL 5732080, at \*11; *Cascabel Cattle Co., LLC*, 2018 WL 5850575, at \*13. This interpretation was reaffirmed by the Fifth Circuit Court of Appeals. *See Cascabel Cattle Co., LLC v. United States*, 955 F.3d 445, 451–53 (5th Cir. 2020) (holding that quarantine exception barred plaintiff’s claim after defining scope of exception through use of statutory intent, ordinary meaning, and precedent).

The proximate causation requirement in the quarantine exception and Treasury exception is satisfied when it is determined that a reasonable person could have foreseen the harm alleged by the plaintiff occurring. *See id.* In the context of the quarantine exception, the “caused by” language specifically means, “the quarantine exception applies when a plaintiff’s damages are *reasonably foreseeable* based on the government’s decision to establish a quarantine or the

government's actions imposing the quarantine." *Id.* at 451–52 (emphasis added). In *Cascabel Cattle Co., LLC*, the quarantine exception applied because the government treated the cattle with an unknowingly lethal treatment to enforce their quarantine, and hence the damages sued for were directly caused by the implementation of the quarantine. *Id.* at 452. For the Treasury exception, the court's interpretation means that the exception applies only when it is reasonably foreseeable that the Treasury's actions led to the damages the plaintiff suffered. *See id.* These recent cases state that proximate causation is a requirement for the Treasury exception and helps courts better determine when the exception can be applied.

### **CONCLUSION**

The Treasury exception protects the acts of the Treasury. While the specific acts the exception is supposed to protect are not definite, statutory interpretation has led courts to discover a proximate causation requirement hidden in the exception's "caused by" language. Courts and legislative bodies should continue to take active measures to better define the Treasury exception and the FTCA's countless other exceptions.

**Applicant Details**

First Name **Alexis**  
 Middle Initial **J.**  
 Last Name **Marvel**  
 Citizenship Status **U. S. Citizen**  
 Email Address [ajm443@georgetown.edu](mailto:ajm443@georgetown.edu)

Address

Address
Street <b>234 Warren Street NE</b> City <b>Washington</b> State/Territory <b>District of Columbia</b> Zip <b>20002</b> Country <b>United States</b>

Contact Phone Number **617-999-8372**

**Applicant Education**

BA/BS From **University of Massachusetts-Boston**  
 Date of BA/BS **December 2020**  
 JD/LLB From **Georgetown University Law Center**  
[https://www.nalplawschools.org/employer\\_profile?FormID=961](https://www.nalplawschools.org/employer_profile?FormID=961)  
 Date of JD/LLB **May 19, 2024**  
 Class Rank **School does not rank**  
 Law Review/Journal **Yes**  
 Journal(s) **The Georgetown Law Journal**  
 Moot Court Experience **No**

**Bar Admission****Prior Judicial Experience**



Judicial Internships/  
Externships      **Yes**  
Post-graduate Judicial  
Law Clerk      **No**

### **Specialized Work Experience**

### **Recommenders**

Paul, Rothstein  
Paul.Rothstein@law.georgetown.edu  
202.662.9094

Pardo, Michael  
michael.pardo@georgetown.edu

Zywicki, Todd  
tzywick2@gmu.edu  
7039939484

Walker, Victoria  
wwalker6@masonlive.gmu.edu  
202-813-9255

**This applicant has certified that all data entered in this profile and  
any application documents are true and correct.**

**ALEXIS MARVEL**

234 Warren Street NE, Washington, DC 20002 • (617) 999-8372 • ajm443@law.georgetown.edu

June 12, 2023

The Honorable Jamar K. Walker  
United States District Court for the Eastern District of Virginia  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am a rising third-year law student in the top 10% of my class at Georgetown University Law Center, where I serve as Editor-in-Chief of *The Georgetown Law Journal*. Proudly, I am the first in my family to obtain a post-secondary degree. I am writing to apply for a 2024–2025 term clerkship in your chambers, or any subsequent term you may have available.

Both during and prior to law school, I have engaged in diverse experiences to attain strong professional, analytical, and advocacy skills. As Editor-in-Chief of Georgetown's main law review, I manage a team of approximately 120 editors and staff, guide the selection of content for publication, and meticulously proof our six-issue volume to ensure technical accuracy and stylistic precision. After participating in my First Year Competition, I was selected to be a member of the Moot Court Board and a Vice Chair of the Global Antitrust Institute Invitational—the only moot court competition in the country to focus entirely on antitrust law. Prior to law school, I worked in corporate public affairs for eight years, where I set the strategic direction of our campaigns and was responsible for client-facing memoranda and public-facing editorial content.

Some of my most valuable experiences in law school involve serving the public interest. Last summer, I interned for the Judge-in-Chambers Courtroom in the Superior Court of the District of Columbia, where I reviewed materials for pro se litigants seeking emergency protective orders and preliminary injunctions. Last fall, I externed for Judge Paul Friedman in the U.S. District Court for the District of Columbia, where I contributed to the work of chambers by producing bench memoranda and portions of a draft opinion during two major jury trials. As Editor-in-Chief of the *Journal*, I also oversee the production of our *Annual Review of Criminal Procedure*, an accessibly written topic-by-topic summary of federal criminal procedure used by the Department of Justice, judges, and pro se litigants alike. Next spring, I will serve as one of eight student counsel in Georgetown's Appellate Courts Immersion Clinic, which handles public interest cases in federal circuits and the Supreme Court.

I am thrilled at the opportunity to submit this application and for the chance to support the work of your chambers. Judge Friedman (D.D.C.) welcomes calls regarding my candidacy and may be reached in chambers at (202) 354-3490. Please find attached my résumé, law school transcript, writing sample, and letters of recommendation from the following professors:

Professor Paul F. Rothstein  
paul.rothstein@law.georgetown.edu  
(202) 662-9094

Professor Michael Pardo  
michael.pardo@law.georgetown.edu  
(202) 661-6551

Professor Todd Zywicki  
tzywick2@gmu.edu  
(703) 300-3874

Professor Victoria Walker  
www3e@virginia.edu  
(202) 813-9255

Thank you very much for your time and consideration.

Respectfully,



Alexis Marvel

**ALEXIS MARVEL**

234 Warren Street NE, Washington, DC 20002 • 617.999.8372 • ajm443@georgetown.edu

<b>EDUCATION</b>	<b>GEORGETOWN UNIVERSITY LAW CENTER</b> , Washington, DC	
	J.D. expected, May 2024	
	GPA: 3.88 (top 10%)	
	Honors: Editor-in-Chief, <i>The Georgetown Law Journal</i> Dean's List, 2022–2023	
	Select Courses: A in Evidence, Advanced Evidence, Administrative Law, Constitutional Law I Federal Courts expected, Fall 2023	
	<b>GEORGE MASON UNIVERSITY LAW SCHOOL</b> , Arlington, VA	
	First-year J.D. coursework completed, May 2022	
	Honors: Selected for Moot Court Board, Global Antitrust Institute Invitational Vice Chair	
	Select Courses: A+ in Legal Writing I and II	
	<b>UNIVERSITY OF MASSACHUSETTS</b> , Boston, MA	
	B.A. in Political Science, December 2020 (attended 2011–2015)	
	Activities: Student Body President Student Trustee	
<b>EXPERIENCE</b>	<b>GEORGETOWN APPELLATE COURTS IMMERSION CLINIC</b> , Washington, DC	Spring 2024
	<i>Prospective Student Counsel.</i>	
	<b>MILBANK</b> , New York, NY	Summer 2023
	<i>Summer Associate, Litigation Track.</i> Researching and drafting memoranda for matters involving antitrust, bankruptcy, criminal possession and conspiracy, and the Federal Tort Claims Act. Reviewing documents in discovery for a pro bono matter involving a father and daughter separated at the border under the Trump Administration. Observing depositions.	
	<b>U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</b> , Washington, DC	Fall 2022
	<i>Extern to the Honorable Paul L. Friedman.</i> Drafted opinion interpreting federal statutes on a motion to dismiss. Composed two bench memoranda advising on proposed jury instructions and Rule 615. Drafted three parts of opinion analyzing hearsay, public authority defense, and inference relating to defendant's conduct. Crafted portion of a sentencing memorandum. Cite checked <i>Daubert</i> opinion. Observed two jury trials, one civil and one criminal.	
	<b>DISTRICT OF COLUMBIA SUPERIOR COURT</b> , Washington, DC	Summer 2022
	<i>Intern to the Judge-in-Chambers Courtroom.</i> Drafted memoranda for several judges analyzing emergency civil matters, including temporary protective orders and preliminary injunctions. Observed, on average, eight to twelve hearings each day.	
	<b>DDC PUBLIC AFFAIRS</b> , Washington, DC	2017–2021
	<i>Senior Associate Vice President.</i> Led national political advocacy campaigns for clients, including Amazon and CVS Health. Drafted client-facing memoranda, pitch decks, editorial content, press releases, and campaign materials.	
	<b>FIVE CORNERS STRATEGIES</b> , Boston, MA/Washington, DC	2013–2017
	<i>Senior Director.</i> Led projects and grew client base within multiple industries, including renewable energy and land use. Crafted and executed campaign strategies across several states.	
	<b>GENERAL COURT OF MASSACHUSETTS</b> , Boston, MA	Spring 2013
	<i>Intern to (Former) State Representative Marty Walsh.</i> Drafted legislation concerning student trustee voting rights on the Board of Trustees for the University of Massachusetts.	
<b>COMMUNITY</b>	Taught ballet and jazz to children in ten countries and seven states. Girls on the Run coach.	

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Alexis J. Marvel  
GUID: 819735570

Course Level: Juris Doctor

**Transfer Credit:**

George Mason University  
School Total: 30.00

**Entering Program:**

Georgetown University Law Center  
Juris Doctor  
Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
----- Fall 2022 -----							
LAWJ	004	09	Constitutional Law I: The Federal System	3.00	A	12.00	
Susan Bloch							
LAWJ	1491	07	Externship I Seminar (J.D. Externship Program)		NG		
Deborah Carroll							
LAWJ	1491	131	~Seminar	1.00	A-	3.67	
Deborah Carroll							
LAWJ	1491	133	~Fieldwork 3cr	3.00	P	0.00	
Deborah Carroll							
LAWJ	1533	05	Civil Discovery in Federal Courts	3.00	A	12.00	
Serafina Concannon							
LAWJ	165	02	Evidence	4.00	A	16.00	
Michael Pardo							
LAWJ	1663	05	The Federal Courts and the World Seminar: History, Developments, and Problems	2.00	A-	7.34	
Kevin Arlyck							
In Progress:							
			EHrs	QHrs	QPts	GPA	
Current			16.00	13.00	51.01	3.92	
Cumulative			46.00	13.00	51.01	3.92	
Subj	Crs	Sec	Title	Crd	Grd	Pts	R
----- Spring 2023 -----							
LAWJ	025	05	Administrative Law	3.00	A	12.00	
LAWJ	1322	05	Civil Rights Statutes and the Supreme Court Seminar	2.00	A-	7.34	
LAWJ 168 07 Advanced Evidence: Supreme Court and the Constitution Seminar							
LAWJ	215	08	Constitutional Law II: Individual Rights and Liberties	4.00	A-	14.68	
----- Transcript Totals -----							
			EHrs	QHrs	QPts	GPA	
Current			12.00	12.00	46.02	3.84	
Annual			28.00	25.00	97.03	3.88	
Cumulative			58.00	25.00	97.03	3.88	
----- End of Juris Doctor Record -----							

## Academic Transcript



This is not an official transcript. Courses which are in progress may also be included on this transcript.

Institution Credit Transcript Totals

## Transcript Data

## STUDENT INFORMATION

Name : Alexis J. Marvel

## Curriculum Information

## Current Program

Juris Doctor

College: Antonin Scalia Law School

Major: Law

\*\*\*This is NOT an Official Transcript\*\*\*

INSTITUTION CREDIT -Top-

Term: Fall 2021

Term Comments: Class standing: 37/262 (tie)

Academic Standing:

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	096	LW	Intro to Lgl Res Writ &	A+	2.000	8.66	
LAW	102	LW	Contracts I	A	2.000	8.00	
LAW	104	LW	Property	A-	4.000	14.68	
LAW	108	LW	Economics for Lawyers	A	3.000	12.00	
LAW	110	LW	Torts	B+	4.000	13.32	

## Term Totals (Law)

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	15.000	15.000	15.000	15.000	56.66	3.78
Cumulative:	15.000	15.000	15.000	15.000	56.66	3.78

\*\*Unofficial Transcript\*\*

Term: Spring 2022

Academic Standing:

Subject	Course	Level	Title	Grade	Credit Hours	Quality Points	R
LAW	097	LW	Trial-Level Writing	A+	3.000	12.99	
LAW	103	LW	Contracts II	B+	3.000	9.99	
LAW	106	LW	Criminal Law	B+	3.000	9.99	
LAW	112	LW	Civil Procedure	B+	4.000	13.32	
LAW	266	LW	Legislation & Statutory Interp	B	2.000	6.00	

Term Totals (Law)

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:	15.000	15.000	15.000	15.000	52.29	3.49
Cumulative:	30.000	30.000	30.000	30.000	108.95	3.63

\*\*Unofficial Transcript\*\*

TRANSCRIPT TOTALS (LAW) [-Top-](#)

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Total Institution:	30.000	30.000	30.000	30.000	108.95	3.63
Total Transfer:	0.000	0.000	0.000	0.000	0.00	0.00
Overall:	30.000	30.000	30.000	30.000	108.95	3.63

\*\*Unofficial Transcript\*\*

Georgetown Law  
600 New Jersey Avenue, NW  
Washington, DC 20001

June 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I write to strongly recommend Alexis Marvel for a position in your chambers. She truly lives up to her last name. She has been elected Editor-in-Chief of our top law review (the *Georgetown Law Journal*), has almost a straight "A" record in law school, and has numerous high level activities outside of law school, including clerking for a really excellent federal trial judge I know personally who thinks very highly of her, as I do.

She is a few years older than the average law student. I point this out because you will not know this from looking at her if you interview her, and may find her amazing history of high level work before law school to be incredible for one so young.

Her story, as I understand it, is inspiring. At eighteen years old, after growing up in Massachusetts, she spent three years traveling the world in a performing arts group based in California called "The Young Americans" which involved dancing and music and several national and international tours. In connection with this group, in addition to performing, she taught song and dance to kids in seven states and ten countries, including children in juvenile detention, some of whose lives, I am told, were transformed by this.

At twenty-three years old, still in her third year of undergrad, I understand she took a job with a political consulting firm that eventually launched her eight-year career managing multi-state campaigns for corporate clients. I am told that this group was so impressed with her that outside of her salary, they helped finance her school tuition. At times, she was shuttling between work and classes. She seems to be able to multitask very successfully. For example, she is married, with a young child, yet, I understand, she has almost single-handedly taught him to read, while she was also grading high in law school and working on the law journal, even becoming its editor-in-chief.

I am told she is the first in her family to go to college. She is a transfer student, here at Georgetown Law, from George Mason law school, where she also graded very high (e.g. receiving A+'s in Legal Writing both semesters there).

At Georgetown Law she has been one of eight students selected for Georgetown's Appellate Courts Immersion Clinic next spring. In my class (a small Advanced Evidence writing-and-class-sessions seminar) she produced an excellent semester long, multiple draft research paper concerning a proposed parent-child privilege, which paper was presented orally and in writing several times to me and the other students as the drafts progressed over the semester. She is very intelligent, articulate, poised, and a really good researcher and writer. In other words, I came to appreciate why she was elected editor in chief following her earlier work with others on the law journal.

She has told me that she especially enjoyed working through all the evidentiary issues in the two jury trials she observed while she was with the judge. She has said "What I loved most about my D.D.C. internship is also what I would get to do more of at the appellate level—grappling with thorny issues of law, and the work of researching and writing. I do plan to go into 'BigLaw' for a few years after clerking, in litigation (ideally appellate work). I'll likely want to shift to academia or government work once I've paid off my loan debt and create some savings for my family."

Personally, I think you could not go wrong in hiring Alexis. In addition to all her other qualities, she is very personable and excellent to work with. She got along really well with the group of fellow students in my seminar even though part of her job (in common with the other students) was to help fellow students perfect their papers by pointing out where more work was needed. She did this extremely well, in the most incredibly effective yet nice way imaginable. She was a favorite of, and valued by, all the students.

Please do not hesitate to contact me if I can provide any more information. I will be pleased to do so.

Kindest regards,

/s/  
Paul Rothstein  
Carmack Waterhouse Professor of Law

Rothstein Paul - Paul.Rothstein@law.georgetown.edu - 202.662.9094

Georgetown Law  
600 New Jersey Avenue, NW  
Washington, DC 20001

June 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to strongly recommend Alexis Marvel for a clerkship position in your chambers. Ms. Marvel is currently a 2L at Georgetown University Law Center, where she has an outstanding GPA and is currently the Editor-in-Chief of *The Georgetown Law Journal*. My recommendation and my knowledge of Ms. Marvel's legal skills are based primarily on her excellent performance in my Evidence course in the Fall 2023 semester. In this letter, I will focus on Ms. Marvel's performance in, and positive contributions to, this Evidence course and then briefly discuss other details that in my opinion make her an excellent clerkship candidate.

Ms. Marvel was a student in my Evidence course this past fall semester. The course was a large lecture class (124 students) that focused on evidence doctrine, with a particular focus on the *Federal Rules of Evidence*. In terms of both in-class participation and performance on the final exam, Ms. Marvel was a clear standout. The format of the class was largely problem-based, with class discussions focused on applying the law of evidence to hypothetical scenarios. In this large class, Ms. Marvel made regular, positive contributions. When called on during class, her contributions analyzing evidentiary issues displayed a strong understanding of the nuances of evidence doctrine. She also participated regularly in policy-based class discussions throughout the semester. Her contributions displayed an appreciation of important practical and policy considerations related to litigation in civil and criminal cases, and her questions typically advanced the discussion. From my perspective, it was, without question, a better class because of Ms. Marvel's participation. Consistent with her in-class participation, Ms. Marvel also performed exceptionally well on the final exam. She received a grade of "A" for the course.

Ms. Marvel's performance in my Evidence course is consistent with her excellent academic performance at Georgetown thus far. This is clear from her achievements to date, including her overall GPA as well as her selection as Editor-in-Chief of *The Georgetown Law Journal*. In addition to these impressive accomplishments, Ms. Marvel possesses other qualities that in my opinion would also make her an excellent law clerk. Most importantly, she appears to have an impressive understanding of, and interest in, many of the practical realities and challenges involved in modern litigation. For example, during a recent experience as a judicial extern, she was able to witness several evidentiary issues in practice in the context of trials and motions *in limine*. She was able to connect the practical contexts for these issues to our class discussions involving witnesses, hearsay, and expert testimony, among other issues. These connections, in my opinion, displayed an impressive understanding of the practical contexts for evidentiary issues and their real-world consequences. She also displayed an impressive understanding of the relationship between evidentiary issues and other practical issues throughout the litigation process more generally (for example, the relationship between the admissibility of experts under *Federal Rule of Evidence* 702 and summary judgment in civil cases). Given her impressive understanding of, and interest in, these issues, it was thus not a surprise to learn that Ms. Marvel's career goals are focused on litigation. Her impressive understanding of, and interest in, these issues—combined with her strong analytical, writing, and communication skills, as evident from her academic performance in law school thus far—also suggest that she would be an excellent law clerk and an asset to your chambers.

Based on the above considerations, I strongly recommend, enthusiastically and without reservation, Ms. Marvel for a clerkship position in your chambers. I would be happy to discuss Ms. Marvel's application further. The best way to reach me is via email at michael.pardo@georgetown.edu .

Sincerely,

Michael S. Pardo  
Professor of Law

Michael Pardo - michael.pardo@georgetown.edu



June 11, 2023

The Honorable Jamar Walker  
Walter E. Hoffman United States Courthouse  
600 Granby Street  
Norfolk, VA 23510-1915

Dear Judge Walker:

It is my pleasure to recommend Alexis Marvel to you for a clerkship. Alexis was a student in both my Contracts I course (where she received a grade of A) and Contracts II (where she received a grade of B+). Typically at Scalia Law, we only have our Contracts students for one semester (for either Contracts I or II). In Alexis's case, however, I had her in class for the entire year and so had the opportunity to get to know her well. I also had the opportunity to talk with her on many occasions outside of class and during office hours. Following her first year she transferred to Georgetown but we have remained in contact since.

Based on my experiences with Alexis, I am pleased to recommend her enthusiastically to you for a clerkship. Alexis's intellect and academic record speak for itself—she has proven herself an accomplished and diligent student, well-prepared for the study and practice of law. What distinguishes Alexis from the typical clerkship applicant, however, is her maturity and leadership qualities. I confess that when Alexis told me of her plans to transfer to Georgetown, I tried to talk her out of it—"Georgetown is such a large law school are you sure you want to transfer there and try to make your way?" Needless to say, I did not anticipate—but knowing Alexis's determination and leadership qualities—that by the end of her first year at Georgetown she would not only distinguish herself but be named Editor-in-Chief of the Georgetown Law Journal. Obviously she also picked up where she left off in the classroom, achieving a stellar academic record during her time at Georgetown. She is an extraordinary woman and Georgetown is lucky to have her.

In class, Alexis distinguished herself as one of the most well-prepared and most active and thoughtful participants to the classroom discussion. Her perspective as someone who had worked and been involved in politics for many years provided a gravitas and real-world perspective on Contracts Law, which is a valuable contribution to a class of first-year students, many of whom are straight out of college.

Alexis is destined to be a great lawyer and eventually to potentially become an academic or do something else in law. She is one of the most mature, thoughtful, and professional students that I have taught during my 25+ years as a law professor. She is a natural leader. She will be a collegial and pleasant personality to have in your chambers and will work well with her co-clerks and staff. It is my pleasure to recommend her to you for a clerkship.

Sincerely,

Professor Todd Zywicki  
George Mason University Foundation Professor Law  
Antonin Scalia Law School  
3301 Fairfax Drive, Arlington, Virginia 22201  
Phone: 703-300-3874 email: tzywick2@gmu.edu

Todd Zywicki - tzywick2@gmu.edu - 7039939484

Victoria Walker  
Former Adjunct Professor  
Antonin Scalia Law School at George Mason University  
Corporate Counsel at Amazon  
[wwalker6@gmu.edu](mailto:wwalker6@gmu.edu) | 202-632-5707

May 25, 2023

Dear Judge:

I take great pleasure in offering this letter of recommendation on behalf of Ms. Alexis Marvel. As Ms. Marvel's Legal Research, Writing & Analysis I/II professor at George Mason, I had the opportunity to instruct her in the classroom during her first full year of law school. Ms. Marvel showed tremendous promise then and her career as a law student has exceeded my lofty expectations. I remain convinced that she has a bright future in the legal profession and I offer this recommendation without reservation.

Ms. Marvel stood out as an exceptional student from the start of her 1L fall semester. She exhibited a high degree of self-motivation and confidence, and she always came to class prepared to engage with the subject matter and other students. I could always count on Ms. Marvel to be one of the first students to volunteer to answer a question or pose a question for class consideration. In class, her questions were always intelligent and thoughtful, and she made consistent and meaningful contributions to the class discussion. In our one-on-one meetings, she sought out actionable feedback to improve both the clarity of her writing and her analysis of the issues.

Her work product consistently reflected a strong grasp of the fundamentals of legal research, writing and analysis. Specifically, Ms. Marvel showed that she was capable of conducting accurate and efficient legal research on state and federal issues. This has been borne out in her law school career as indicated by her impressive transcript. Her writing was always free of errors, organized logically, and appropriate for her audience. I found her ability to analyze legal questions to be more advanced than that of any first year law student that I've taught thus far. She was able to identify and articulate the nuances of the law, and her analysis reflected an appreciation for the flexibility of the law. What I found most impressive about Ms. Marvel is that she consistently produced the best work in my class and yet she remained actively committed to improving. This commitment coupled with her intelligence, work ethic and intellectual curiosity has served her well in all her classes and I'm sure these qualities will serve her well in your chambers and beyond.

I thoroughly enjoyed instructing Ms. Marvel and she is undoubtedly one of the brightest students I've had the pleasure of teaching. She is a future trailblazer within the legal profession and great things lie ahead for her. I know she will be an extraordinary addition to your chambers.

Sincerely,

Victoria Walker

*Former Adjunct Professor at Antonin Scalia Law School at George Mason University Corporate Counsel at Amazon*

**ALEXIS MARVEL**

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**WRITING SAMPLE**

The attached writing sample is a persuasive memorandum written in opposition to summary judgment, which I produced for my first-year Legal Writing course in the 2022 Spring Semester. The assignment was to persuade the U.S. District Court for the Eastern District of Virginia to deny the defendant's motion for summary judgment on the matter of our client's trademark infringement claims. At issue was whether the defendant competitor infringed on our client's product mark by creating a likelihood of consumer confusion with its own product mark.

The memorandum is presented in its original, complete form. While the cited facts were based on a closed universe of fictitious materials, the cited law was not. I conducted all legal research, and the writing is my own. Section I.C–E and G–J, as well as the Conclusion, were edited by me alone. My instructor provided limited comments on earlier drafts of the following parts: Introduction; Statement of Facts; Summary Judgment Standard; and Section I.A–B and F.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

SUTTON FAMILY MILLS, INC.,  
A VIRGINIA CORPORATION,

Plaintiff,

v.

PERFORMAX, INC.,  
A MAINE CORPORATION,

Defendant.

Civil Action No. 1:22-cv-01207

**Memorandum of Law Opposing Defendant’s Motion for Summary Judgment**

**Introduction**

Plaintiff Sutton Family Mills, Inc. (“Sutton”) is a respected, century-old business with a forty-two percent share of the dog food market. Sutton has continually sold and advertised “Nature’s Choice,” its highest-grossing dog food, since it registered the trademark in 1995. In December 2021, Defendant PerforMax (“PerforMax”), a company founded in 2011, infringed on Sutton’s trademark when it introduced a dry dog food called “Nature’s Best” to market. PerforMax now argues that Sutton’s trademark infringement claims must be dismissed.

Summary judgment is inappropriate and should be denied. Discovery has confirmed the strength of Sutton’s claims, particularly on the strength of Sutton’s mark, PerforMax’s intent to confuse consumers, and actual consumer confusion. Because the Fourth Circuit places the weight of trademark infringement on the foregoing three factors, a reasonable jury could conclude PerforMax infringed on Sutton’s trademark by creating a likelihood of consumer confusion.